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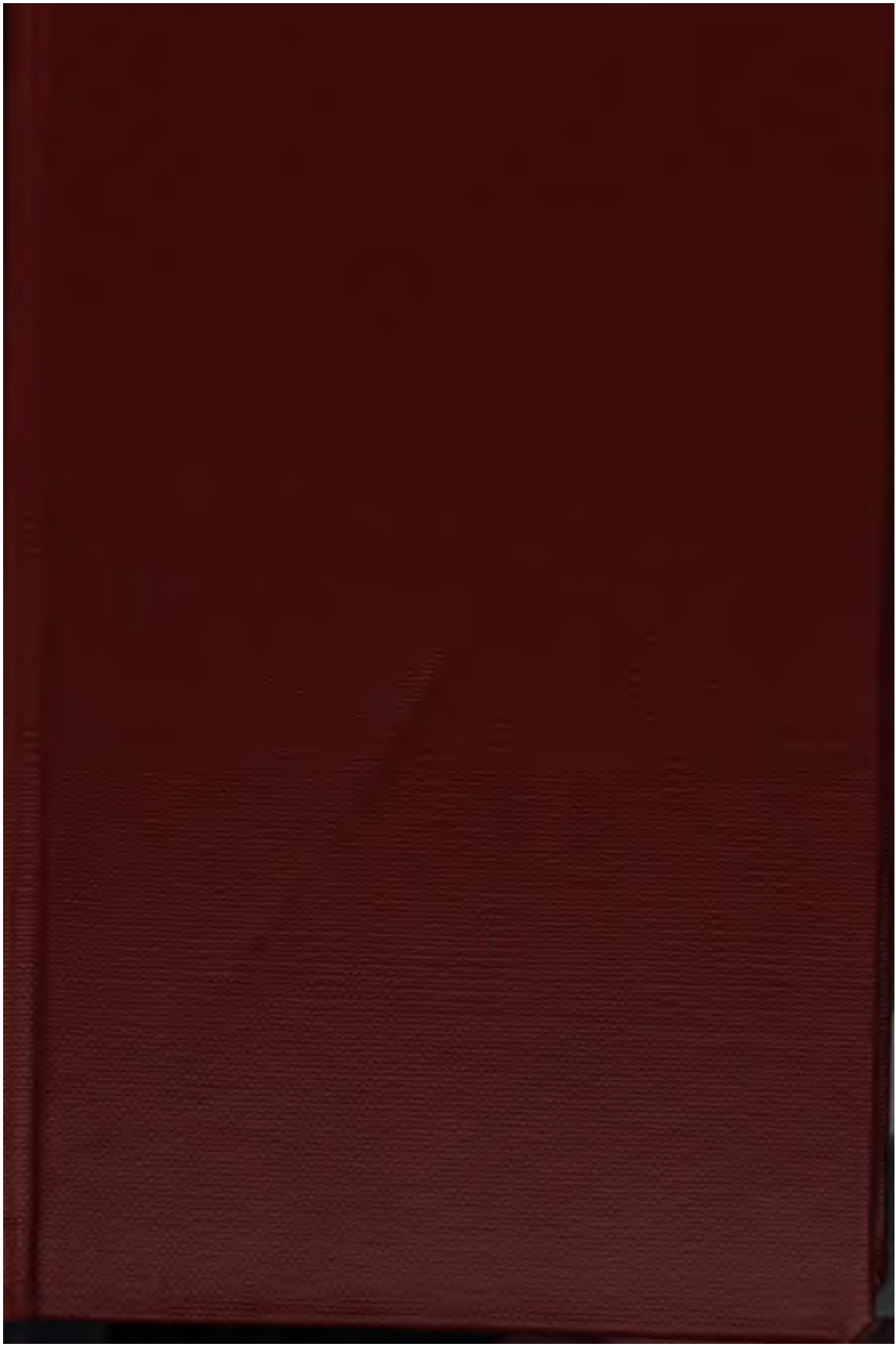

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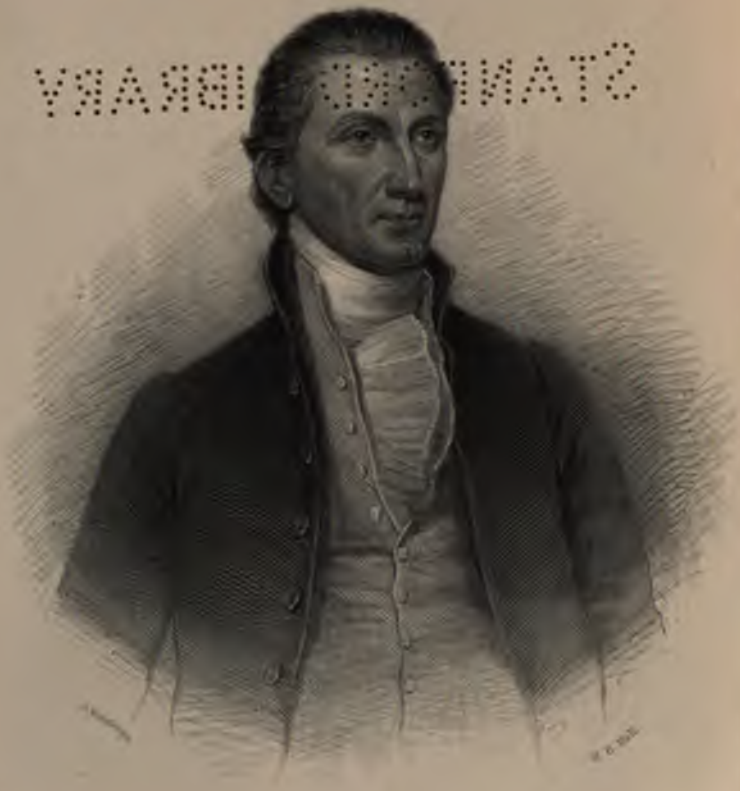

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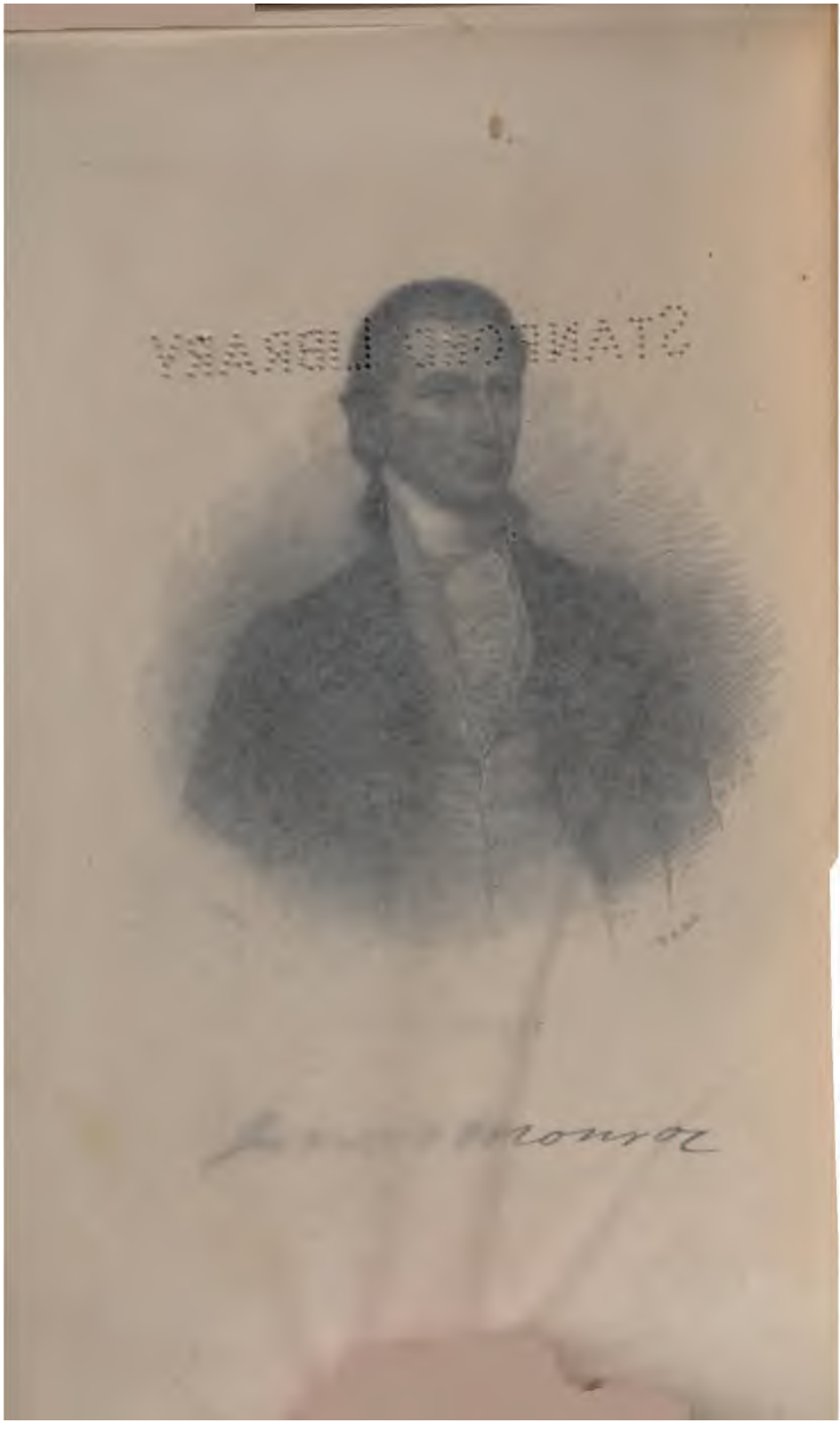

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"The cause of liberty has been always a most interesting one to me. It animated my youthful days; it has engaged the zealous attention of my maturer years, and it will command my best efforts in its support so long as I shall be permitted to live."—MONROE.

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TO

VIRGINIA

WHO GAVE TO

OUR COMMON COUNTRY

WASHINGTON—JEFFERSON—MADISON

AND MONROE

THESE RECORDS OF HER SON

ARE DEDICATED

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INTRODUCTION.

Plain, practical, didactic,—a man of action, not of words,—he was efficient and potential in wondrous works of usefulness, and the thousands a thousandfold more brilliantly illumed by genius were not half so successful by force of good common sense and the inspiration of a good earnest purpose.—HENRY A. WISE.

OF the writings of our statesmen none possess a more timely interest and value to the student of American history than those of James Monroe. More than fifty years' public service connect him with the most important and vital interests of our country. The industry and success with which in the Congress of the Confederation, and subsequently, he contributed to the vindication of our national right to the navigation of the Mississippi, and, sensible of the incompetency of the powers of Congress under the Confederation, introduced his resolution urging the several States to vest that body with power to regulate commerce,—the first step towards the convention at Annapolis, leading to that of Philadelphia and to the adoption of our present Constitution,—would alone render his services conspicuous and endear his life and memory to his countrymen.

His career as a soldier in the war of the Revolution was useful and gallant. Brandywine, Germantown, Monmouth, and Valley Forge form a roll of honor

for the youthful student of William and Mary College. His civil career began as a legislator of his native State from the county of King George, and as a member of the executive council of Virginia; at twenty-four Jefferson's colleague in Congress; later Senator from Virginia; then Minister to France—when the disturbing causes of the French Revolution had disjointed everything in the Old World, and at a time when that post could only have been filled by a man of experience, ability, and courage. It was anticipated that he would inspire the rulers of France with a confidence that he would not intrigue with the neighboring Powers, and it was hoped that he might, therefore, preserve in the French Government a friendly disposition towards the United States. It was the duty of James Monroe, as an honest man, to be faithful to his principles. He was so, even though it brought on him censure from Pickering, then Secretary of State, and that censure could not have failed to wound him deeply, as it came with the sanction of Washington, a man whom he had so long venerated, and under whom he had fought in his youthful days. But the views that he had so long cherished could not be abandoned, even though their maintenance brought him later on into opposition to the illustrious Washington.

As Governor of Virginia his administration was diligent, active, and useful. He was elected a second time with an increased majority, and so general was the satisfaction afforded by his administration that he received, at its close, a unanimous vote of thanks from both branches of the Legislature.

Immediately after Monroe's term in the govern-

ment of Virginia had expired, he was appointed, by the President of the United States, to a trust of the highest importance to the nation. The Spanish Government had suppressed the right of deposit at New Orleans stipulated by the Treaty of 1795; a vital blow at the prosperity of a vast and fertile portion of our country that excited a ferment among our Western brethren, and was felt in every quarter of the Union. This suppression was effected in a way which indicated a disposition to resort, if necessary, to force. Spain, it was known, had ceded Louisiana to France,—and it was, therefore, to be inferred that the French Government had instigated the measure. President Jefferson considered Monroe the fittest person in the United States for a mission whose object was to accommodate this difference. Monroe had from the beginning supported the right of the United States to the navigation of the Mississippi. He possessed in the highest degree the confidence of the Western people. Jefferson therefore appointed him to act in conjunction with Livingston and Pinckney. The mission to France was a complete success. A short time after his arrival the treaty was signed, in virtue of which we are now in possession of both banks of the Mississippi and of that rich and noble portion of our Union—the West. The part borne by Monroe in the acquisition of the Louisiana territory was, throughout his life, the source of the greatest satisfaction to him. By the treaty which terminated that negotiation, a war apparently inevitable was prevented and the prosperity and happiness of our Western brethren were permanently secured.

But it is not for me to enter here into a detail of the public services of James Monroe. The task would be too extensive if a full view of his conduct, in all the transactions to which he was party, were given. One action alone has brought his name before the present peoples of the world. And it is this, that when the Holy Alliance abroad threatened to intervene against the liberties of the colonies of Spain in the New World, his message to Congress uttered the warning that the despotism of the Old World should not dare to lay its mace on the liberties of the New. Monroe fixed the policy and the attitude of the United States of America in the family of nations. Whatever may be the interpretation of "the Monroe Doctrine" for the future, it was then and thereby that the Southern Republics sprang into life and assumed separate and equal station among the nations. It was then that the North American Republic taught the world to respect its example and its sanction of freedom, and that it put its moral weight into the Scale of the Balance of Power on Earth.[1]

In the year 1829–30 Monroe was chosen President of the first Convention of Virginia to reform the Constitution of the State. Old age and infirmity compelled him to resign this last post. Soldier, legislator, commissioner, diplomat, statesman, president, justice, conventionist, and constitutionalist, he has filled every measure of public trust and filled it well. Were a more thorough appreciation of his own individual and patriotic labors the only result of the publication of his writings, it alone is sufficient reason for this edition. P

[1] Governor Wise.

when the events with which his name and life are inseparably linked are impartially considered, it is a tardy recognition of the debt we owe to James Monroe that, until the presentation of this collection of his writings, the student of his life and of those events with which his doctrines are so closely allied, has been obliged to search for the reading he desired through scattered public documents and in the files of unpublished manuscripts.

Monroe has left material in the shape of notes, together with a large collection of letters from and to the most distinguished men of this and other countries. In the early period, while in Congress, his correspondence with Jefferson and Madison is the most conspicuous. With both, for nearly the whole of his life, he maintained relations of great confidential intercourse, and was closely connected with them in many important official trusts. Such intercourse led to a constant interchange of intelligence, opinions, and views, resulting in an immense mass of correspondence and documentary history. That which marks the period of the War of 1812 is of great importance in exhibiting the untiring zeal and patriotism that lightened the public councils of the nation during that gloomy period. The letters written during his missions to France, Spain, and England contain instructive lessons to students in American diplomacy.

The greater part of this collection was acquired by Congress from Monroe's heirs, under an appropriation of $20,000 by Act, approved March 3, 1849. These manuscripts are now deposited in the Bureau of Rolls and Library of the Department of State,

handsomely mounted and bound and calendered; others are in our greater libraries and familiar archives, and many yet remain in the hands of individual owners. From the greater collection this edition is substantially drawn; but generous and cordial responses from other sources have enabled me to include many of the scattered papers. These volumes will, therefore, contain a more complete record of the public services and the influence of James Monroe than has been hitherto attainable. The work has its shortcomings and its errors, for it has been no easy task to gather all that may exist, especially as there is no prior compilation or collected publication of his writings. But the labor is lessened by the honor felt in being instrumental in placing before the statesmen of to-day, before the student, the patriot, and the citizen, that which will throw new light on the life and career of the colleague—even though they seriously differed on important points—of Washington, Adams, Jefferson, Madison, and Hamilton, in order that he may receive that degree of credit and of lasting honor from America and Americans which has been too often withheld and even denied him by partizan historical zeal.

To those who have kindly assisted me I have made specific acknowledgments in my notes, but I wish here to express my especial thanks to Captain John S. Tucker, of Washington, to whom I am greatly in debted for the supervision of the text and the prepara
of notes during my own personal illness; to M
erett, of Keswick, Va., who has pla
collection of letters addressed to

Charles Everett, Monroe's private secretary; to Mr. Andrew H. Allen, Chief of the Bureau of Rolls and Library; to Messrs. William McNeir, John P. Weissenhagen, and J. A. Tonner of that Bureau; to Mr. Chas. T. Hendler, Foreman of the Government Printing Branch of the Department of State; to Mrs. Mary Stevens Beall, Secretary of the Columbia Historical Society, and to Mrs. James Lyons, of Richmond, Recording Secretary of the Association for the Preservation of Virginia Antiquities.

S. M. H.

BROOKLAND, D. C.,
June, 1898.

ANNALS OF THE LIFE

OF

JAMES MONROE.

MILITARY RECORD—COMMITTEE SERVICE—MOTIONS AND REPORTS IN CONGRESS.

James, the son of Spence Monroe and of Elizabeth, the sister of Judge Joseph Jones, was born on the banks of the Potomac in Westmoreland County, Virginia. From among the memoirs of him it is gathered that on his father's side he was descended from the Scotch, on his mother's, from the Welsh. His early instruction was under the direction of the Reverend Mr. Campbell, of Westmoreland, until at the age of 16 he entered the College of William and Mary, only to abandon the great opportunities there afforded for a liberal education to obey the call of his country.

1758. April 28.

At the age of 18, Cadet in the 3d Virginia regiment, Colonel Hugh Mercer—Promoted to a Lieutenancy and ordered to the main army under General Washington—At the battle of Harlem Heights, September 16—White Plains, October 28—With the army in its retreat through New Jersey—Wounded at the battle of Trenton, December 26.

1776.

At the battle of Brandywine, September 11—At Germantown, October 4—Appointed aid-de-camp on the staff of Lord Stirling, November 20.

1777.

With Washington in camp at Valley Forge, where (May 16, 1778) he subscribed to the oath of allegiance as aid-de-camp to Stirling—At Monmouth, June 28—Returned to Virginia —Appointed Lieutenant-Colonel (whence his title of "Colonel") to one of the new regiments to be raised in that State

1778.

—Owing to the exhausted state of Virginia's finances the regiment was not raised and Monroe became supernumerary—Subsequently served as volunteer in the organization of State militia.

1780. Military commissioner from Virginia to the Southern army—Student of law under Jefferson.

1782. Elected to the Virginia Assembly—Member of the Executive Council (aged 23 years).

1783. June 6. Elected one of the delegates from Virginia to Congress, term beginning November 3, 1783.

1783. Dec. 13. In his seat on the assembling of Congress at Annapolis—Definitive Treaty of Peace laid before Congress.

1783. Dec. 20. Moved "that an authenticated copy of the act passed by the United States in Congress assembled, the 13th of September last relative to the act of the legislature of Virginia, of the 2d January, be transmitted by express to the executive of Virginia."

1783. Dec. 23. General Washington resigned his commission.

1784. Jan. 8. On committee with Mr. Williamson and Mr. Tilton, to whom were referred the memorial of Captain Houdin of the 2d Massachusetts regiment, and that of Lieutenant Thatcher of the Line, praying for promotion.

1784. Jan. 15. Moved "that ye superintendent of Finance be directed to furnish to Major [David Solebury] Franks 200 guineas to bear the expenses of his mission with ye ratification of ye definitive treaty to our ministers at Paris."

1784. Jan. 26. On committee with Mr. Williamson and Mr. Tilton, to whom were referred a memorial of Joseph Ward, and a petition of R. Frothingham praying half-pay.

1784. Jan. 26. Drafted report on memorial of Francis Cazeau, a man of influence and property in Canada, ruined by his attachment to the American cause. [See Amended Report, March 16, 1784.]

1784. Jan. 30. Chairman of committee with Mr. Partridge and Mr. Williamson—Drafted sea-letter to Daniel Parker, owner of ship, *The Empress of China*, from New York to Canton:—

"MOST SERENE, SERENE, MOST PUISSANT, PUISSANT, HIGH, ILLUSTRIOUS, NOBLE, HONORABLE, VENERABLE, WISE, AND PRUDENT EMPERORS, KINGS, REPUBLICS, PRINCES, DUKES, EARLS, BARONS, LORDS, BURGO-MASTERS, COUNSELLORS, AS ALSO JUDGES, OFFICERS, JUSTICIARIES AND REGENTS OF ALL THE GOOD CITIES AND PLACES, WHETHER ECCLESIASTICAL OR SECULAR, WHO SHALL SEE THESE PATENTS OR HEAR THEM READ;

"WE THE UNITED STATES IN CONGRESS ASSEMBLED, make known, that John Green, Captain of the ship called the Empress of China, is a citizen of the United States of America, and that the ship which he commands belongs to citizens of the said United States, and as we wish to see the said John Green prosper in his lawful affairs, our prayer is to all the before mentioned, and to each of them separately, where the said John Green shall arrive with his vessel and cargo, that they may please to receive him with goodness, and treat him in a becoming manner, permitting him upon the usual tolls and expenses in passing and repassing, to pass, navigate and frequent the ports, passes and territories, to the end, to transact his business where and in what manner he shall judge proper, whereof we shall be willingly indebted."

Moved "that the committee on the Memorial from Canadian refugees be instructed to examine the engagements of Congress and of the Commander in Chief to the people of Canada and report their opinion how far the publick faith under the laws of nations is thereby engaged to make good the losses they have sustained from the part they have acted under those engagements."

1784. Feb. 10.

On committee with Mr. Williamson and Mr. Sherman, to whom was referred a letter of January 20th of that year, from John Pierce, Paymaster-General, respecting claims to half-pay and commutation.

1784. Feb. 11.

Moved "that it be recommended to the State of Rhode Island and Providence Plantations to make good the depreciation of the monthly pay of Samuel Sandford, late an ensign in Colonel Moses Hazen's regiment, agreeably to the resolution of April 20, 1781."

1784. Feb. 13.

On committee with Mr. Williamson and Mr. Howell, to

1784. Feb. 24. whom was referred the memorial of Major Anthony Selin (a foreign officer), late of General Hazen's regiment.

With Mr. Jefferson, Mr. Hardy, and Mr. Lee presented to Congress the form of a deed to be executed by Virginia, ceding to the United States all her territory lying northwest of the Ohio; Congress approving the deed, the same was signed, sealed, and delivered by the delegates, and enrolled among the Acts of the United States in Congress Assembled. [The original parchment deed is among the "Papers of the Continental Congress" in the Department of State. The impression of Jefferson's seal is gone; portions of those of Hardy's, Lee's, and Monroe's remain. The witnesses to the deed were Chas. Thomson, Henry Remsen, Jr., and Benjamin Bankson, Jr.]

1784. Mar. 1.

1784. Mar. 13. Moved that Gunning Bedford's (Delaware) term of service be entered as from the date of his appointment.

Chairman of committee with Mr. Howell and Mr. Sherman. Drafted report on the memorial of Francis Cazeau: "That as the depreciation of paper currency (mentioned in Mr. Cazeau's memorial) did not arise from a voluntary act of Congress, but was an evil forced on us by exigencies, hath been injurious to our own citizens as well as to foreigners, and as no compensation hath been made the former, for the losses they have sustained thereby, the United States in Congress assembled, cannot with justice discriminate between them and any other class or description of men. That whatever stores or provisions Mr. Cazeau purchased and collected, for the use of the American army, by engagement of the Officer commanding the detachment, or other person duly authorized by him for that purpose, whether they reached the detachment or not, if so purchased and collected, they were destroyed, and he in that degree injured, the United States are in honor and justice bound strictly to make good the loss he sustained thereby, provided i shall not appear, in the liquidation of his accounts that the sa stores and provisions were to have been at his risque until t delivery thereof. That whatever Mr. Cazeau advanced to e presses, to give necessary communications to our generals, shou be repaid him. That the sale of his goods to the inhabitant

1784. Mar. 16.

his province, to promote our interest, upon cheaper terms than he might otherwise have obtained, was an act of benevolence not authorized on our part; and can therefore in justice give him no claim for retribution. That an interest of six per cent. per annum from the first day of May, 1777, be allowed to Mr. Cazeau, on the above advances, and on the amount of the articles so purchased and collected. That the superintendent of finance be, and he is hereby directed, to advance to Mr. Cazeau, the sum of 5000 dollars on account, and to order his account to be adjusted, and to give him certificates for the payment of the balance at such early and convenient times, as the finances of the United States will admit of. That in settling the accounts of Mr. Cazeau, his own testimony, under oath, be admitted in support of such other evidence as the circumstances of the case will admit."

1784. April 14. Moved "that ye States of Maryl^d^ & Virg^a^ be informed that provided they will advance the U. States 40,000 £ pounds for the erecting ye necessary buildings for the reception of Congress at or near Georgetown at ye falls of ye Potowmack, it shall be allowed them in the requisitions made on them for — year of ye U. S. in Congress assembled."

1784. May 19. Moved to commit the question "Whether the State of Rhode Island shall be entered on the Journal as voting" on the question of the qualifications of her delegates,— Messrs. Ellery and Howell.

1784. May 25. Seconded Mr. Howell's motion "that there be enlisted as soon as possible, to serve for the term of three years, unless sooner discharged, 450 men, to be employed for defence of the north-western frontier of the United States; and that the different States furnish their quota."

1784. May 29. In the consideration of the Committee of the States, moved "that the Committee shall have power [only] receive [the, all] communications from foreign ministers and lay them before the Congress when they shall convene but shall [proceed to the] transact[ion of no other business with them which they are not authorized to do by the United States in Congress assembled] no business with them unless authorized [by] thereto by particular acts of Congress."

Moved "that general Knox be instructed to order 350 men properly officered, of the troops now in the service of the United States, to march immediately, to be in readiness to take possession of the western posts, as soon as evacuated by the troops of his Britannic majesty. That 700 men, officers included, to serve for the term of three years, unless sooner discharged, be raised for the relief of those troops, the protection of the western frontiers, and for guarding the public stores and that the several states furnish their quotas."

1784. June 1.

On committee with Mr. Sherman, Mr. Read, Mr. McHenry, and Mr. Dick, to whom was referred the question of raising troops for defence of northwestern frontiers.

1784. June 3.

On committee with Mr. Stone, Mr. Read, Mr. Sherman, and Mr. Williamson, to whom was referred the petition from Massachusetts praying the appointment of a Federal Court by Congress to decide the dispute between that commonwealth and New York. First Monday in December, 1784, assigned for the appearance of the agents of the respective States; form of notice to be transmitted by the Secretary of Congress, agreeably to the Articles of Confederation.

1784. June 3.

Draft of report of committee on instructions to our minister at Madrid: "Sir,—As you will be furnished with the instructions given your predecessor Mr. Jay in his negotiations with the Court of Spain which fully investigate the right of the United States to the territory within their lines and to the navigation of the Mississippi, in virtue of their independence of Great Britain and of the injustice of any claim founded on the part of Spain upon conquest from Great Britain of the territory which belonged to them, it will be unnecessary to add anything to what those instructions contain. But if a claim founded on the principles of the Revolution was questionable, the late treaties between Great Britain and the United States, and Great Britain and Spain respectively, have determined the bounds to which their respective rights extend. By the 2^{d} article of the Treaty between Great Britain and the United States, it is stipulated that the line which bounds the United States after it reaches the Mississippi shall extend along the middle of the said river until it intersects the northernmost part of the 31st. degree of nor

1784. June 23.

latitude; thence south by a line to be drawn due east from the determination of the line last mentioned on the latitude of 31 degrees north of the equator to the middle of the river Apalachicola or Latahouchi; thence along the middle thereof to its juncture with the flint river; thence straight to the head of St Mary's river and thence down along the middle of St Mary's river to the Atlantic Ocean. And the 8th. article stipulates that the navigation of the river Mississippi from its source to the ocean shall forever remain free and open to the subjects of Great Britain and the citizens of the United States. If by the principles of the Revolution the United States had not already acquired the rights which these articles stipulate, they remained of course in Great Britain. The Treaty of Paris in 1763 gave them to her and she never relinquished them until the Treaty with the United States. In her subsequent treaty therefore with Spain, Great Britain could only convey what she retained, which could induce no restriction or qualification, had she wished it, on the right which had already accrued to the United States, and the accession of Spain to a treaty with her upon these conditions, under which she now claims what she holds, must be considered as an acknowledgment of the right in the United States. The bounds therefore as limited in said treaty between Great Britain and the United States with the right of the navigation of the Mississippi from its source to the ocean, with those rights which appertain to that of navigation are in any treaty you may enter into, to be expressly stipulated to the United States without which indeed you are to enter into no treaty."

[Monroe's associates were Pinckney, Houston, Jay, Bedford, Hardy, and Gerry].

1784. Aug. 28. Credentials as delegate from Virginia signed by Benjamin Harrison.

Moved respecting northwestern posts: — "Whereas it was stipulated in the 7th article of —— the treaty between the U. S. and his Britanick Majesty, that the troops of his Britanick Majesty sho^{d} be withdrawn from the posts and fortifications within the [bounds affixed by said treaty to the U. S.] U. S. 'with all convenient speed,' and whereas the said troops have not been in compliance [the posts of M. Detroit

1784. Dec. 2.

&c. within s^{d} U. S. are still held by B. garrisons] with said article, withdrawn from the posts and fortifications within the northwestern bounds of the U. S., whereby the U. S. have been prevented from taking possession of s^{d} posts & their citizens excluded from free passage & navigation of the lakes, to their eminent disadvantage therefore resolved, That the Comrs. for negociating commerc^{l} treaties be instructed [be instructed to report to the Court of London] to represent to his Britanick Majesty the dissatisfaction at [s^{d} procedure] the delay of the ct. of London of G. B. in complying with the said article and to require that [said posts and fortifications be delivered, surrendered as soon as possible & that] his troops be withdrawn from every post and place within the [bounds] territory of the U. S. agreeable to the 7th. article of ye treaty and to insist that a precise time be appointed for said purpose [to inform (assure) his Britanick Majesty that it is the desire of the U. S. to live in amity with him and that they will do everything necessary on their part to cultivate the most friendly intercourse between the citizens and subjects of either power].

Chairman of committee, with Mr. Houston and Mr. Howell. Drafted resolution recognizing Charles Hellstedt, consul to reside at Philadelphia representing the King of Sweden, to date from September 22, 1783:—"Resolved, That the said commission be registered in the secretary's office; and that thereupon acts of recognition in due form be immediately issued to the several States, in order that they may respectively furnish him with an exequatur or notification of his quality, that the same may be made known and published."

1784. Dec. 3.

Chairman of committee, with Mr. Howell, Mr. Williamson, Mr. Benson, and Mr. Houston, to whom had been referred his motion of the 2d. Drafted report on said [his own] motion:—"The Committee to whom was referred the motion of Mr. Monroe respecting the northwestern posts of the U. S. beg leave to submit the following report, viz:—"Whereas it was stipulated in the 7th. Article of the treaty between his B. Majesty and the U. S. of A. that the troops of his B. Majesty shoud. be withdrawn from th posts and fortifications within the U. S. with all convenient sp and whereas at Michilam^{k}, Detroit, and other posts within

U. S. are still held by British garrisons: Therefore resolved, That ——— be instructed to represent to his Britanick Majesty the dissatisfaction of the U. S. at the delay of the Court of G. B. in Complying with said article & to require that his troops be withdrawn from every post and place within the Territory of the U. S. & to assure his B. Majesty that it is the desire of the U. S. to live in amity with him & that they will do everything necessary on their part to cultivate the most friendly intercourse between the citizens and subjects of either power."

1784. Dec. 7. On Committee with Mr. Holten, Mr. Ellery, Mr. Hardy, and Mr. Williamson. Report ordering that the secretary in the war office cause the troops at Fort Stanwix to be marched immediately to Fort Rensselaer.

1784. Dec. 8. On committee with Mr. Howell, Mr. Benson, Mr. Holten, and Mr. Bedford; draft of an ordinance to revise the system of the war office reported.

1784. Dec. 11. Chairman of committee with Mr. R. R. Livingston and Mr. Beatty. Drafted report on petition of Major Doughty, with resolve "that the Secretary of the war office take order for supplying the troops under the command of major Doughty, with clothing, agreeably to the return to the war office; that Mr. Duer, the contractor, be requested to continue to supply the said troops, as also those at Fort-Rensselaer, upon the terms he hath hitherto done with provisions for the months of January and February ensuing. Resolved, (by nine States) That in consideration of the additional expense, into which major Doughty hath been thrown by having the command of the garrison at West-Point, he be allowed the pay and emoluments of major of artillery, to commence from his appointment to said command."

1784. Dec. 23. Seconded Mr. Hardy's motion to strike out the words "on the banks of either side of the Delaware, not lower than Lamberton, nor more than six miles above it" in the ordinance for a temporary seat of Congress, and in lieu thereof to insert "at Georgetown, on the Potomac."

1784. Dec. 24. On committee with Mr. Ellery, Mr. Read, Mr. Williamson, and Mr. Holten. Report referring the petition of Mr. Ayot, a captain in the service of the United States in Canada, to the paymaster-general.

1785. Jan. 31. Seconded Mr. Pinckney's motion to assign a date for the election of a minister plenipotentiary to London.

On the question of raising troops to secure the Western territory, moved:—"Whereas by the acts of several of the States, ceding vacant territory to the U. S. there is a prospect that by a proper disposition of it, it may be made a valuable fund for the discharge of the publick debt, and whereas security to the persons & property of the settlers will contribute much to the facility & expedition of the sales, therefore resolved, that men be rais'd to serve for the term of three years unless sooner discharged & quota'd on the States in the following proportions viz." [See April 11, 1785.]

1785. Feb. 1.

Chairman of committee with Mr. Platt, Mr. Read, Mr. Hardy, Mr. Spaight. Reported on "sundry letters from the Secretary for foreign affairs." (See Note, page 62.) In the consideration of the question of commercial intercourse with Canada, moved as follows: "Resolved that upon all goods originally imported into the British province of Canada & transported thence up the Lakes and landed either in publick or private stores without the bounds of any of the 13 U. S. or elsewhere within the bounds of the U. S., shall be paid the duty of — per ctm. ad valorem at the places where they may be landed; and that in cases of doubt the *onus probandi* lie upon the owner; except in cases of ship-wreck, or wherein vessels have been forc'd on shore to avoid ship-wreck. That the citizens or others, inhabitants of the U. S., are hereby authoriz'd to build ships or other vessels and to conduct their commercial concerns thro' the lakes, with goods originally imported into the ports of the U. S., without any restraint or limitation whatsoever.

1785. Feb. 11.

That it be recommended to the people who may settle under the protection of the forts & garrisons of the U. S. without the boundaries of any particular State, to the west and north west of Fort Schloser to erect a temporary form of govt. for themselves and to lay such reasonable duties on their commerce as it will sustain, to defray as far as possible the expenses of said garrisons an' that they appoint collectors to receive the same to be appl' agreeably to the orders of the U. S. in Congress assembl

That ——— be instructed, provided they enter into a treaty of commerce with G. Britain, that the commercial intercourse between G. Britain, Ireland, the west Indies, or other possessions of his Britannick Majesty & the U. S. be so regulated as that the U. S. be laid under no restrictions with respect to the intercourse between the citizens of these United States & his subjects in Canada or other possessions of his B^k^ majesty on this Continent, but that either party be left at liberty to make such regulations respecting said commerc! intercourse as they may think proper."

Moved that it be "Resolved, That agreeably to the condition of the act of cession from the State of Virginia, a commissioner be appointed, who jointly with the commissioner on the part of the said State, shall be authorised to appoint a third, who or a majority of them, shall be empowered to adjust and liquidate the accounts of said State against the United States for the necessary and reasonable expenses incurred in subduing any British posts, or maintaining any forts or garrisons within or for the defence, or in acquiring any part of the territory ceded by said State to the United States agreeably to said act of cession: That the advances of the said State for the above purposes when liquidated and adjusted be deducted out of the requisition for the year 1785."

1785. Feb. 25.

On committee with Mr. R. R. Livingston, Mr. McHenry, Mr. Howell, Mr. Read. "Resolved, That 300 dollars be advanced to Francis Carboneaux, agent for the inhabitants of the Kaskaskias and St. Vincents, for which sum he is to be accountable; and that the president draw a warrant accordingly."

1785. Mar. 4.

Henry Knox elected Secretary at War, having been previously nominated by Mr. Monroe—On committee with Mr. Spaight and Mr. King; report on petition of Silas Talbot. "Resolved, That the officers who retired under the resolve of the 31st. December 1781, are equally entitled to the half-pay or commutation with those officers who retired under the resolves of the 3d. and 21st. October 1780."

1785. Mar. 8.

Chairman of committee, with Mr. Hardy and Mr. Holten, to whom were referred the instructions from the Legislature in

Virginia to their delegates in Congress. Drafted report that "Whereas it appears, that the liquidation and settlement of the accounts between the United States and the State of Virginia, and the inhabitants thereof, is stopped by the resignation of Mr. Zephaniah Turner, the commissioner appointed pursuant to the act of the 20th. February 1782: and it further appearing, that Mr. Andrew Dunscomb was, on the 18th. October last, nominated to that office by the late superintendent of finance, and has been approved by the said State; Resolved, That the Comptroller notify the said Andrew Dunscomb of his appointment, furnishing him with a copy of the instructions, given to the commissioners for settling the accounts between the United States and each particular State, and the creditors of the United States within the same, and the several acts and resolutions of Congress for their government, and direct him to proceed in the execution of the business, with all suitable despatch."

1785. Mar. 10.

On committee with Mr. Johnson, Mr. McHenry, Mr. Howell, and Mr. Williamson. Reported on letter and sundry papers from Indian Commissioners—On committee with Mr. Howell, Mr. Pinckney, Mr. R. R. Livingston, and Mr. Gardner to revise the institution of the office of the Secretary of Congress and to report such alterations as they judged necessary.

1785. Mar. 18.

The following letter addressed to the President by Mr. Monroe was read in Congress:—"Sir, By a letter from the honble the Agents on the part of Massachusetts and New York, my appointment as a judge to sit on the fœderal Court for deciding the controversy between those States has been announced to me. I would have answered it sooner, but being on the Spot where the communication might at any moment be made I did not conceive it essential. I now do myself the honor to inform your Excellency that I shall accept the appointment and attend at whatever place the Court may be held"—On Committee with Mr. Ellery, Mr. Read, Mr. Williamson, and Mr Spaight. The memorial of Alexander Stewart referred to the paymaster-general.

1785. Mar. 21.

Drafted report granting Congress the power of regulatir

trade. (See Note, page 80)—On Committee with Mr. Hardy, Mr. King, Mr. Johnson, and Mr. McHenry. Reported on the memorial from the merchants of New York, setting forth the peculiar losses they sustained during the war by their exertions to support the credit of paper currency. Claim of memorialists referred to the Legislature of New York.

1785. Mar. 28.

In the consideration of commercial treaties, moved "that a committee be appointed to revise & report what alterations, if any, are necessary to be made in the instructions given to the commissrs., authorized to enter into commercial treaties with ——— powers."

1785. April 4.

Chairman of committee, with Mr. Johnson, Mr. R. R. Livingston, Mr. King, Mr. Beatty, Mr. McHenry, and Mr. Bedford. Drafted report on raising the military force voted April 7, 1785:—

1785. April 12.

"That the non-commission'd officers and privates to be rais'd by the resolution of be furnish'd by the States hereinafter mention'd in the following proportions.

Connecticut	165
N. York	165
N. Jersey	110
Pensyl^{a}	260

That the following commission'd officers be furnish'd by the said States for the said troops in the following proportions.

One Lieutenant Colonel from Pensyl^{a}. Two majors—one from Connecticut and one from N. York—each to command a company—8 captains—ten Lieutenants—one to act as adjutant one as q^{r}master and one as paymaster—ten Ensigns—one surgeon and four mates—to be furnish'd by the said States in proportion to the number of privates which they respectively furnish.

That the pay of the Lieut^{t} Colonel be 50 dollars.

that of the major	45 dol^{s}
of the capt^{n}	35 d^{o}
Lieut^{t}	26 d^{o}
Ensign	20 d^{o}
Serjeant	6 d^{o}
Corporal	5 d^{o}

Surgeon..... 45 dol^{s}
Mates..... 30 dol^{s}
Drum & fife..... 5 d^{o}

That the Lieutenants acting as adjutant—q^{r}master and paymaster shall receive in consideration of s^{d} extra duty 10 dol^{rs} each pr. month.

That the pay of the privates shall be four dol^{rs} p^{r} month and that each officer and soldier shall receive one months pay, after they are embodied, before their march.

That the Secretary at War be directed to form the said troops, when rais'd into one regiment consisting of 8 companies of infantry and two of artillery—to appoint their places of rendezvous—direct their subsequent operations and make all other inferior necessary arrangements, not herein particularly mention'd, subject to the order of Congress and of the committee of the States in the recess of Congress. and that the Commiss^{rs} of the Treasury be instructed to furnish on his warrant the sums necessary for carrying the same into effect.

That the said troops when embodied, on their march, on duty, or in garrison, shall be subject to all the rules and regulations form'd for the gov^{t} of the late army, or such other rules as Congress or a Committee of the States may form."

1785. April 18. On committee with Mr. King and Mr. Howell. Committee reported on the memorial of Thomas Walker.

Moved, in the ordinance for ascertaining the mode of disposing of lands in the Western territory, that the following clause be struck out:—" Also one-third part of all gold, silver, lead, and copper mines for the purpose of special sale, at such times and places as Congress may hereafter direct."

1785. April 20.

In the consideration of the ordinance for ascertaining the mode of disposing of lands in the Western territory, seconded Mr. Grayson's motion to amend the section respecting the extent of townships. Seconded Mr. Grayson's motion to amend the section respecting the sale of lands.

1785. May 3.

Seconded Mr. McHenry's motion to strike out a portion of the section respecting the sale of lands. Seconded Mr. Pinckney's motion.

1785. May 4.

On committee with Mr. King and Mr. Howell. Commit-

reported on the memorial of Augustus Provost, praying a compensation for land granted by the Six Nations of Indians to the late Colonel Croghan.

1785. May 6. Seconded Mr. Grayson's motion to amend the ordinance respecting lands in the Western territory.

On committee with Mr. King and Mr. Johnson. Committee reported on the report of the Secretary for Foreign Affairs on a certain paragraph in the letter of May 9th from the Chargé des Affaires of France.

1785. May 11.

Drafted report on invalid pension of Mordecai Hale: "The Committee to whom was referred the memorial of Mordecai Hale late surgeon's mate in the army of the United States, having examined the said memorial and the vouchers and papers accompanying it submit the following report: Resolved That the said Mordecai Hale be & hereby is declared to be within the intent and meaning of the Act of Congress of the 26th. of August 1776, making provision for wounded and disabled officers and soldiers in the service of the United States and that it be recommended to the State of New York to make provision for him accordingly which shall be allowed in her account against the United States."

1785. May 18.

On the third reading of the ordinance for ascertaining the mode of disposing of lands in the Western territory, moved to strike out the following clause: "The township or fractional part of a township, No. 1, in the first range, shall be sold entire, and No. 2, in the same range by lots, and thus in alternate order through the whole of the first range; the township or fractional part of a township No. 1, in the second range shall be sold by lots, and No. 2, in the same range entire, and so in alternate order through the whole of the second range, and the third range shall be sold in the same manner as the first, and the fourth in the same manner as the second, and thus alternately throughout all the ranges," and in lieu thereof to insert: "The commissioner of the loan office in each state, shall offer for sale all the land transmitted to him either in townships, fractional parts of townships, or in such smaller quantities as he shall find expedient; provided that he shall sell no smaller tract than one containing seven lots, except in cases wherein the

1785. May 19.

fractional parts of townships shall not contain that amount." [For the ordinance as passed see the Journal, May 20, 1785.]

In the consideration of the recommendation to the State of North Carolina in the execution of a deed to the United States, moved an amendment to insert the words: "The State of New York, the commonwealth of Virginia," in addition to the words "the commonwealth of Massachusetts."

1785. May 23.

Chairman of committee on commercial treaties, with Mr. King, Mr. Pinckney, Mr. Johnson, and Mr. Lawrence. Drafted "The report of the Committee appointed to 'revise & report what alterations, if any, are necessary to be made in the instructions given to the Commis^rs authoriz'd to form commerc^l treaties with powers.'

1785. June 2.

In examining the said instructions it occurr'd to the Committee as a subject worthy of previous inquiry 1. whether the U. S. were possess'd of sufficient powers to form commercial treaties so as that their engagements sho^d be binding on the Union. 2. If they were, whether such treaties might probably be obtain'd at present, as they sho^d accept of, with all the s^d powers, if not with whom, and what the measures necessary to be taken with those who decline them. 3. the principles upon which the treaties sho^d be form'd with each.

1. The Committee have thought it their duty to suggest their doubts upon the first point without entering into an investigation of it; they think it sho^d be determin'd, for unless it shall be unquestionable that the U. S. have it in their power to give what indulgence or lay what restraints they please, upon the intercourse of other powers with these States, all propositions on their part, founded in the principles of reciprocity, will prove ineffectual; other powers will not enter into engagements which are not reciprocal, and finding us incapable of laying similar restrictions on their trade, will adopt such with respect to us as they ma· think necessary. The evil is in this instance an internal or and untill we apply a remedy to the source, all extra or supe ficial applications will be unnecessary.

2. For information upon the 2^d point 'whether such treati could be obtain'd at present &c' the Committee are of opini

that recourse must be had to the interests of each power respectively as they apply to these States. It is the interest of all powers who have materials for exportation and who wish to encourage it, whether of manufactures or gross materials, to create as great a competition among the purchasers, and to impose as light duties upon the exportation, as possible. With those who manufacture only and depend on other countries for the raw materials, to lay light duties upon the importation thereof and to admit them from every country. If these principles are just it will be the interest of every country with whom we can have a commercl intercourse to invite us to the ports of their capitals, to admit our raw materials, & to let us take off theirs in return, upon as favorable terms as possible. What we shall then ultimately obtain from those powers who have no Colonies or Islands we shall probably obtain at present or at any time, and as well perhaps without as with a treaty. On our part, as we have many gross materials for sale, and require the greater part of our manufactures and many other articles from beyond the Atlantick, in those articles we purchase and those we carry to market it is our business to create as great a competition as possible—to have all the world before us in both views and the ports of these States open to all nations.

Treaties between the U. S. and powers thus circumstanc'd, or having no Colonies, or with the capitals of those who have them, sho[d] be of amity only, if indeed such are necessary in the present improv'd state of society, and for this purpose [provided it did not subject us to the inconvenience hereafter mention'd] those which stipulate to each party the right of the most fav[d] nation, might perhaps be well adapted.

But the policy of the powers who hold the W. India Islands, is to monopolize their trade & make it subservient to their particular aggrandizement. And the countries to whom the most valuable belong, France and G. Britain, are those with whose capitals we shall have, for the interchange of our respective commodities, the principal intercourse. Independent of their colonies therefore they might claim with greater propriety, than either of the other powers, perfect reciprocity. If then they admitted us into their Islands freely it would be in consideration of particular

advantages in our general commerce, which other nations sho^d not be entitled to. Whether this shall be the case and to what degree, may become a question in the last resort but the Committee are of opinion that other measures sh^d at least be tried, in the first instance.

By negociation in the first instance, most probably, this end will not be obtain'd: it is therefore best to begin in a manner which may be successful. Theirs is a plan of distress to us, and ours must reciprocate it. Upon what quarter of their system shall we begin? The Committee doubt the propriety, of taking such measures only, as are calculated to affect the Islands: in proportion as we lay restrictions upon their commerce, in the importation of theirs or the exportation of our materials, be the effect as it may with respect to the Islands, it will in the degree that it deprives us, of a mart for our produce, as well as of the purchase of theirs, certainly operate to our prejudice. They therefore advise at the same time, those which will be less injurious to these States, and strike more deeply into their commercial system. By laying higher duties upon their vessels than those of other powers, and lower upon those of these States, than of any other country, we shall essentially wound their gen^l commercial interests, and at the same time promote those of these States. Whatever also, which hath heretofore come thro' their ports, not of their growth, but of the mediterranean, the East, or the North, sho^d be prohibited here, and requir'd from the ports of the countries to which they belong. In short while these powers pursue their present policy with respect to the Islands, it is ours to press them in every vulnerable part, and to pursue it to the utmost extent that our interest will admit of, untill we obtain what we seek. But altho' the policy of France & G. B. is precisely the same, founded in a similarity of interests, with respect to their Islands, and of course the same measures are warranted on our side, with respect to each, yet the Committee doubt the propriety, to the same extent, on both at the same time. Under the treaty France is entitled to the rights of the most fav'd nation, & in that case the N. Netherlands, Sweden, Portugal and all other powers otherwise, not the object of restriction, must be included. They are therefore of opinio

they sho^d^ apply in the first instance, to G. Britain only, and if they succeed with respect to her, France must follow the example. Upon the whole the Committee are of opinion that

3. As the trade with those powers who have not Colonies in America, is as advantageous to them as it can be to these States, and may be carried on as well without as with a treaty, and of course can gain nothing, & may embarrass us, that for the present it sho^d^ be declin'd. If however the contrary sentiment sho^d^ prevail, that they be so form'd as to lay us under no restraint, as to the principal object which we have in view viz: the opening of the W. India Islands. For this purpose, that our engagements with each be with it alone, separately and independently of its, or the connections of the U. S. with other powers, stipulating to their subjects certain rights & privileges within our ports, in consideration for those of a similar nature to our citizens within theirs, and that the extent of the obligation, on either side, be fully understood. That no engagement sho^d^ be entered into with those having possessions in the W. Indies, which did not in some degree open s^d^ possessions to the U. S. whereupon resolv'd that the two first articles of said instructions be repeal'd & the following inserted in their stead. viz.

1—That with the nations holding possessions in the W. Indies each party shall have a right to carry their own produce, manufactures, and merchandize in their own bottoms to the ports of the other, as well the metropolis as such possessions, & thence to take back the produce & merchandize of the other, paying each in both cases, the same tonnage upon their vessels engag'd in the transportation thereof—that if this cannot be obtained in full as to such possessions that it be stipulated as to certain free-ports within such possessions—and if this cannot be obtained that it be stipulated that each party be permitted to carry its own produce in its own bottoms to the ports of the other.

[2. That with the other powers it be stipulated that each party shall have a right to carry their own produce manufactures]

2. That with the other powers a direct and similar intercourse be stipulated with each respectively.

3. That it be propos'd to all the said powers though not indispensably required, that the same duties be paid upon the goods,

wares, and merchandize of each other, in the ports of the U. S. and theirs respectively, ad valorem :—" [Indorsement—On a motion relative to Commercial treaties. Entd Read 2. June, 1785. Secret. But Congress order a written copy to be made out for each State & deliver'd to the delegates. Thursday 9 June assigned for Consideration—"]

1785. June 7. On committee with Mr. Ellery, Mr. Read, Mr. Williamson, and Mr. Spaight, to whom had been referred the applications from Canadian refugees, praying relief. Moved " that the salary of the commissioner to be appointed to settle the accounts of the State of Virginia against the United States, under the act of cession of her claims to territory northwestward of the River Ohio, shall be at the rate of dollars per annum; and that the resolution of the 21st. day of April 1785, be repealed." On motion of Mr. Ramsay the amount was made $2,500. Amended June 9.

1785. June 9. Moved " that the Board of Treasury be and hereby are directed to take order for the payment of three hundred and thirty three dollars and one third of a dollar to the guardian of Hugh Mercer son of the late General Mercer for one years education and Board." [General Hugh Mercer of Aberdeen, Scotland, died from wounds received on the battlefield of Trenton.]—" Congress resumed the consideration of the motion made yesterday by Mr. Monroe and the same being amended was passed and Samuel Holden Parsons elected Commissioner."

1785. June 13. Chairman of committee, with Mr. Williamson and Mr. Howell. Drafted report on letter from Baron Steuben of May 3:—" That the board of treasury take order for the immediate payment of the liquidated debt specified in the resolution of the 23rd. of March 17, 1785, to be due baron Steuben on the 10th. of June 1784, amounting to $1826^{83}/_{96}$ dollars, together with interest thereon."

1785. June 22. Drafted the proposition of the Virginia delegates:—" Whereas the U. S. are plighted under the act of cession from the State of Virga. of her claims to territory no. westward of the Ohio agreeably to the conditions of the sd. account as therein contained ' to reimburse the sd State all her reasonable

expenses &c ' and as a commiss^{r} is appointed on the part of the U. S. for the adjustment and liquidation of said accts. and it is necessary that provision be made for complying with said engagements it is therefore agreed that provided they shall be liquidated during the operation of the requisition that ——— dol^{rs} be admitted in discount to the said State for said advances." [Note in the handwriting of Chas. Thomson:—" 60 copies of this must be printed & ready to be delivered by 10 oclock."]

On committee with Mr. Ellery, Mr. Read, and Mr. Spaight, to whom was referred the application of Canadian emigrants touching rations. In connection with this subject, moved that it be " Resolv'd that the several addresses from the U. S. in Congress assembled to the people of Canada contain only invitations to them to join in the confederacy upon the common principles of the Union, equally to commit their lives & fortunes to the uncertain events of war & to submit in either contingence to the consequences thereof.

1785. July 11.

That as the advantages & disadvantages in either event were before them, the obvious reward on the one hand freedom & the probable loss on the other, that of life & property, the exertion of every individual was the effect of a voluntary choice & a preference for that alternative and that the losses which he may have sustain'd from the B. government as a penalty for such conduct do not, by any engagement express'd or complied, entitle him to retribution from these States & that such a claim is not authoris'd by the usage of nations in similar circumstances.

That the attachment of these individuals to the American interest, their attention to our troops in Canada & the losses w^{h} these considerations expos'd them to, altho they found no claim for retribution, entitle them to the gratitude & attention of these States & that from motives of humanity as well as policy advisable to give them such compensation as will relieve their distresses."

1785. July 18. On grand committee to whom had been referred the consideration of revenues and expenses for 1785.

On committee with Mr. Gerry and Mr. Johnson, conferring on the Secretary for Foreign Affairs the power to negotiate treaty with Don Diego de Gardoqui [Secret Journal, 3, page 568].

1785. July 20.

Moved the repeal of the resolution of July 25 directing " that

in any State where the United States in Congress assembled, may hold their sessions, the taxes collected in such State, in consequence of the general requisitions, and not appropriated for the payment of interest on the domestic debt, shall in the first instance be paid into the treasury of the United States, anything in the resolution of the 15th. April last to the contrary notwithstanding"—On committee with Messrs. Ellery, Spaight, and McHenry, to whom had been referred the petition of Maurice Desdevans respecting treasury certificates.

1785. July 26.

Chairman of committee, with Mr. Pettit, Mr. Gerry, Mr. McHenry, and Mr. King. Drafted report on letter of August 15, from the Secretary for Foreign Affairs: "Resolved, That the last paragraph in the instructions to the Secretary to the United States for the department of foreign affairs, passed July 20, 1785, for entering into a treaty, compact or convention with the encargardo de negocios of his catholick majesty, in the words following: 'That the Secretary to the United States of America for the department of foreign affairs be and he is hereby instructed, previous to his making propositions to don Diego de Gardoqui, or agreeing with him on any article, compact or convention, to communicate to Congress the propositions to be made or received relative to such article, compact or convention,' be repealed, and that the following be substituted in its place: That the secretary to the United States for the department of foreign affairs be and he is hereby instructed, in his plan of a treaty with the encargado de negocios of his catholick majesty, particularly to stipulate the right of the United States to their territorial bounds, and the free navigation of the Mississippi from the source to the Ocean, as established in their treaties with Great Britain; and that he neither conclude nor sign any treaty, compact or convention, with the said encargardo de negocios, until he hath previously communicated it to Congress, and receive their approbation."

1785. Aug. 25.

Moved: "Whereas doubts have arose with some of the Commis^{rs} appointed under the resolution of the 20th. of February 1782 for the settlement of the accounts of States and Individuals within the same against the United States, whether the resolution of the 3rd of June 1784 admitting circumstan-

1785. Dec. 30.

tial evidence in support of such claims, where no written vouchers are or can be produced, should be confined to the claims of Individuals only, or extend also to those of the States, which hath occasioned a delay in the settlement of the Accounts of States thus circumstanced to their material injury; and whereas the principle upon which such mode of settlement is authorized with respect to the claims of Individuals will admit of no discrimination, but must in justice and good faith, apply equally to those of States; the more fully therefore to explain the objects of the said resolution, and to remedy the aforesaid inconvenience, it is hereby resolved That the Commissioners authorized to settle the accounts of States and Individuals within the same against the United States be instructed, that in cases where no written vouchers are or can be produced and they shall receive satisfactory evidence that such vouchers have been destroyed or lost, or that from the circumstances of the case they have never been obtained, they shall receive such other evidence in support of said claims of States as well as Individuals, as shall be satisfactory to them and the best that the circumstances of the case will admit. And in case the said Commissioners or any of them doubt the truth or justice of any account presented to them for settlement, whether accompanied with written vouchers or not, they shall examine him if an Individual, and if an officer on the part of the State, the said officer or such other persons as he shall think proper, at their discretion upon an Oath as well respecting the circumstances of the vouchers, as the justice and validity of the claims respectively, provided that they shall allow no claim unless it shall be supported by satisfactory evidence." [Indorsement: "Order of the day for Monday Jany 9, 1786."]

1786. Feb. 3. Chairman of committee, with Messrs. Johnson, Gorham, Symmes, and Livermore, to consider the sytsem of a general revenue. [See Journal of Congress, for report in full, this date and February 15.]

1786. Feb. 10. Moved that it be "Resolved, That the board of Treasury be directed to lay before Congress a statement of all sums of money borrowed from the United States by individual States, during the late war."

Moved that it be "Resolved That the President and other

members of Congress shall in all cases have precedence, and that the Secretary of foreign affairs be instructed to give information thereof to the representatives of foreign powers

1786. Feb. 27. that they may be enabled to comply with the sentiments of the U. S. in Congress assembled."

On committee with Mr. Pinckney, Mr. Dane, Mr. Johnson, and Mr. King for revising the system adopted for the settlement of the accounts of the five great departments. Moved in

1786. Mar. 24. connection therewith "that the b^d of treasury be directed to report to Congress the salary which shall be allowed the sd. Comm^r with the number of clerks it will be necessary to be employed under him and the salaries which shall be allowed to each."

Moved "that the Board of Treasury be directed to take order for the payment of 400 dollars to the guardian of Hugh Mercer, son of the late general Mercer, for his education and board,

1786. May 6. for the term of one year, commencing on the 27th. day of April last."

"Report of Committee on motion of Mr Dane, for considering & reporting, the form of a temporary government for the western States — Ent^d — read May 10th 1786 — The

1786. May 10. Com^m Mr Monroe [Chairman] Mr Johnson Mr King Mr Kean Mr Pinckney Thursday May 18. 1786 assigned for consideration—July 13 1786—resolve—the report as amended inclosed

"The Committee to whom a motion of Mr Dane was referr'd for considering & reporting the FORM of a TEMPORARY GOVERNMENT for the WESTERN STATES, beg leave to report,—

It being stipulated by individual States, in their Acts of Cession to the United States, that the Territory *thus* ceded be laid into States of certain dimensions, and admitted into the Confederacy with the rights of the 13 original States, it becomes necessary, that Congress should take such measures as shall be best calculated to carry the said condition into effect. This can be done only by promoting its settlement and securing to its settlers & others who may purchase the soil, the rights of property and of personal safety, with the Conditions upon which they shall

ultimately obtain that important privilege. The Committee therefore think it the duty of Congress to adopt & publish, previous to the sale of any part of the said territory, the plan of a temporary government for said State or States, with the period at which it shall expire, and they assume their form and equal Station in the Confederacy.

They are aware of the propriety of defining in the first instance the bounds of the States within which such government shall apply; but as Congress did on the day of recommend it to the said States to revise their Acts of Cession, as to the said Condition which respects their dimensions so as to enable the United States to make such division of the same as therein described, it would in their opinion be improper to make any further arrangements respecting it until the fate of the said recommendation shall be determined. It is however to be understood, that if the reasons urged for the proposed alteration, shall be satisfactory, and the States accede to it, the States as therein designated, shall be perpetual. But if on the contrary, they should adhere to the said Condition, however unfortunate it may be in its consequences, the States must be contracted to an extent of territory conformable to the condition as it now stands. Leaving therefore this point to be determined by this event, the Committee beg leave to submit the following plan of temporary Government for such State or States.

The PLAN of a TEMPORARY GOVERNMENT for such districts as shall be laid out by the United States, upon the principles of the Acts of Cession from Individual States, & admitted into the Confederacy.

THE United States in Congress Assembled will appoint a Governor, whose Commission shall continue in force for the term of . . . years unless sooner revoked by Congress.

They will also appoint a Council consisting of five members, whose Commissions respectively shall continue in force for the term of . . . years, unless sooner revoked by Congress. It shall be the duty of the Council in all cases, when he shall require it, to attend and advise the Governor upon such subjects as he shall submit to their consideration, respecting the affairs of the district, and which in his Opinion shall fall within his department.—

There shall likewise be appointed a Secretary to the Governor & Council, whose business it shall be to keep a Journal of all proceedings; carefully entering the advice of Council in all cases submitted to them, with those reasons which influenced the Governor, when he disagrees with them, and acts differently for such disagreement; the advice of Council to be entered in all cases in presence of the Governor ; and the reasons of the Governor in the other instance in presence of the Council and report a Copy of all such proceedings every . . . months to . . .

There shall also be appointed a Court, to consist of five Members, who shall have a common law and Chancery Jurisdiction, and whose Commissions shall continue in force during good behaviour.—

The Laws of . . . except in such cases as are herein provided for, shall be established in such district, and continue in force, subject only to alteration by the General Assembly after it shall be Organized, until its admission into the Congress of the United States. All writs shall issue, and legal process be carried on in the Name of the United States.

The Governor shall, in all cases of consequence, take the advice of Council, but shall be at liberty to pursue it, or act otherwise, as his own Judgment shall direct.—

The Governor for the time being, shall be commander in Chief of the Militia; all officers below the rank of Major, shall be of his appointment; all Officers above that rank, shall be appointed by Congress; and all Officers of every rank and degree, shall be Commissioned by Congress.—

The Governor shall form the inhabitants of such districts into a Company or Regiment, as their numbers will admit; build a fort or forts, and make such other arrangements for their security and defence, as in his Opinion shall be necessary; provided that he shall avoid commencing hostilities with the Indian tribes, to whom the United States have extended their protection, and with whom it is their desire to be at peace.

Upon petition from the people forming such settlement or settlements to the Governor, he shall proceed to lay out their lands into Counties, townships, or otherwise, and make such other inferior and local arrangements consistent with the Ordinance

and Resolutions of Congress as shall in his Opinion be best calculated to promote their interest and happiness.

So soon as there shall be . . . free male inhabitants of full age within the said district, upon giving due proof thereof to the Governor, who shall immediately transmit the same to Congress they shall receive from *them* authority, with time and place, to elect Representatives from their Counties or Townships, as aforesaid, to represent them in general Assembly; provided that for every . . . free male inhabitants, there shall not be less than one Representative, and so on progressively with the number of free male inhabitants shall the right of Representation encrease provided, that no person shall be eligible, or qualified to act as a Representative, unless he shall be a Citizen of one of the United States, or have resided within such district . . . years, and shall likewise hold in his own right in fee simple . . . acres of land within the same; provided also, that a freehold or life estate, in 50 acres of land, if a Citizen of any of the U. S. and one years residence, if a foreigner, in addition, shall be necessary to qualify a man as elector for the said Representative.

The Representatives thus elected shall serve for the term of . . . years, and in cases of death, resignation or renunciation of Office, the house of Representatives shall issue a writ to the County or Township for which he was a member, to elect another in his stead to serve for the residue of the time.—

The General Assembly shall consist of the Governor and Council, and a House of Representatives, who shall have a Legislative authority complete in all cases for the good government of the district; provided however, it shall be confined solely in its acts, to such lands as shall be disposed of by the United States, or have already vested in proprietors under the Articles of Capitulation entered into with the Inhabitants of Kaskaskies, St Vincents and the Neighbouring Villages by the Officers of the Commonwealth of Virginia, and to the Officers and soldiers of the Virginia line, which rights have been secured to them by the Act of Cession from the said State to the United States; Provided also that the lands of Non-resident proprietors whether Citizens of the United States or foreigners shall in no instance be taxed higher than those of Residents.—

All Laws shall originate in the House of Representatives; and having passed there by a Majority of the Representatives of the district, shall be referred to the Governor for his assent; after obtaining which, they shall be complete and valid; but no bill, resolution Ordinance or Legislative Act whatever, shall be valid or of any force without his assent.—

The Governor shall have power to convene, prorogue or dissolve the general Assembly at their request, or when in his Opinion it shall be expedient.

The said Inhabitants or settlers shall be subject to pay a part of the federal debts contracted or to be contracted, and to bear a proportional part of the burdens of the government, to be apportioned on them by Congress according to the same common rule and measure by which apportionments thereof shall be made on the other States.

From the time the settlers in such district shall have formed a general Assembly until they shall be admitted by their Delegates into Congress, they shall have authority to keep a member in Congress with the right of debating, but not of voting.—

The annual Salary of the Governor, shall be . . . that of a member of Council . . . of the Secretary . . . of a Judge of the Court . . .

The Board of Treasury shall devise and report the most equal and effectual means of assessing upon the said district annually such sums as shall be necessary to defray the expences of its government, until the organization of the general Assembly, after which such general Assembly shall have full authority for the purpose.—

The object for which this temporary government is instituted being to protect the persons & rights of those who may settle within such districts in the infancy of their settlement, the United States look forward with equal anxiety to the period at which it shall cease and they be admitted, agreeably to the Condition of the Acts of Cession, into the Confederacy. This shall be the case so soon as they shall respectively obtain a common interest in its affairs, with such mature age and strength as to be able to act for themselves, the highest and most satisfactory evidence o which is, the number of inhabitants they will contain; *It is ther*

fore hereby declared by the United States in Congress Assembled that so soon as any of the said districts shall contain an equal number of free male inhabitants, with the least numerous of the 13 Original States *for the time being*, upon giving due proof thereof to Congress, the inhabitants of such district shall receive from them, authority to elect Representatives to meet in Convention, *at the Metropolis or seat of government* of said district, to form a free constitution, of their own—appoint Delegates to the Congress of the United States, who shall be received in the same, upon an equal footing with the 13 Original States, having the same rights of freedom, sovereignty and Independence as the said States.—

Resolv'd that the resolutions of the 23^{d} of April 1784 in the following words viz: [here insert the resolutions] be and they are hereby repeal'd.

The following letter from the Honorable James Monroe to the President of Congress was read: "Sir. As some circumstances will put it out of my power to act as a judge for the decision of the controversy between the States of Massachusetts and New York, I take the liberty to present through you my resignation to Congress. But at the same time that I withdraw myself from this office, it is with particular pleasure that I assure your excellency of the high sense and grateful regard I bear to the States who have conferred this honor on me. I am with sentiments of the greatest respect and esteem Y^{r} Excellencys most obt. & most humble servant, Ja^{s} Monroe."

1786. May 15.

Chairman of committee, with Mr. Johnson, Mr. King, Mr. Kean, and Mr. Pinckney. Drafted report on treaties with Southern Indians:—

"The Committee consisting of to whom were referr'd the treaties with the western & southern Indians and the dispatches accompanying them beg leave to report in part— and whereas it is unnecessary to continue the commissions longer in force, as the future connection and intercourse with the several Indian nations may, at a less expence, be maintain'd by a proper organization of the Indian department therefore resolv'd—

1786. May 17.

That the several commissions of the 7th May and 22 Sep. 1785 be and are hereby revok'd

granted for the purpose of treating
with the Indians in the within [*sic*]
the northern middle & southern Departments."

1786. June 2. Seconded Mr. King's motion that the commissioners authorized to treat with the Indians in the northern and middle departments be directed to render an account for the moneys and effects put into their hands.

1786. June 29. On committee with Mr. Grayson and Mr. Dane, to whom had been referred a letter from the Governor of Virginia respecting depredations committed by Indians. In consideration of report on this subject, moved to strike out the words "making war on them" and alter the clause to read "or repelling their attacks as circumstances may require, so as to secure the frontiers of the said States from further depredations."

1786. July 7. Congress took into consideration his motion: "That it be recommended to the legislatures of the States of Massachusetts and Virginia, to take into consideration their acts of cession and revise the same, so far as to empower the United States in Congress assembled, to make such division into States of the ceded lands and territory, as the situation of the country and future circumstances may require; with this limitation and condition, however, that all the territory of the United States, lying northwest of the River Ohio, shall be formed into a number of States, not less than 2 nor more than 5, to be admitted into the Confederacy on the principles and in the forms heretofore established and provided."

1786. July 12. Chairman of committee, with Mr. Johnson, Mr. King, Mr. Kean, and Mr. Pinckney, on treaties made with Indians.

1786. July 27. On committee with Mr. King, Mr. Johnson, Mr. Lawrence, and Mr. Pettit, to whom was referred an act of the State of New York passed May 4, 1786, entitled "An act for giving and granting to the United States in Congress assembled, certain imposts and duties on foreign goods imported into that State, for the special purpose of paying the principal of the debt contracted in the prosecution of the late war with Great Britain."

Chairman of committee, with Mr. Pinckney, Mr. Livermore, Mr. Pettit, and Mr. Sedgwick, appointed to confer with the Legislature of Pennsylvania respecting the Impost Law.

1786. Aug. 11. Drafted report:—"The Committee appointed under the resolution of 27 of July last submit the following report in part. Resolved That in their opinion it is expedient an application be made immediately to the Legislature of Pennsylvania either by the appointment of a Committee to attend and confer with the said Legislature or an address to explain to them more fully the embarrassed state of the publick finances and to recommend to the said state to repeal the clause in her act granting the impost which suspends its operation until all the States shall have granted the supplementary funds, so as to enable on her part the United States to carry the said system into effect as soon as possible. Resolved, That it be earnestly recommended to the Executive of the State of New York immediately to convene the legislature of the said State to take into consideration the recommendation of the 18th. of April 1783 for the purpose of granting the system of impost to the United States in such conformity with the acts and grants of the other States, as on her part to enable the United States to carry the same into immediate effect. That a Committee be appointed to confer with the said legislature as soon as it shall be convened, to state to them the exhausted and embarrassed state of the publick finances and in consequence thereof the eminent disadvantages which must result to the Union from her failure to comply with the said recommendation."

1786. Aug. 14. Appointed with Mr. King a committee to attend and confer with the Legislature of Pennsylvania.

On committee, with Mr. Johnson, Mr. King, Mr. Pinckney, and Mr. Grayson, to whom had been referred a letter

1786. Aug. 22. from the Governor of New York of August 16th, respecting impost duties.

Chairman of committee, with Mr. Johnson, Mr. King, Mr. Pinckney, and Mr. Smith, on the petition of "Kaskaskians.'

1786. Aug. 23. Drafted report: "The Committee to whom was referred a petition from the inhabitants of Kaskaskias for the organization of a gov^{t} over the said district, submit

the following report in part,—Ordered that the Secretary of Congress inform the inhabitants of the said district that Congress have under their consideration the plan of a temporary gov^t^ for said district and that its adoption will be no longer protracted than the importance of the subject a due regard to their interest may require."

1785. Nov. 17. Credentials as Delegate from Virginia signed by Patrick Henry (Original in " Papers of the Continental Congress ").

1786. Feb. 15. On Committee with Mr. King, Mr. Pinckney, Mr. Kean, and Mr. Pettit (*See* Note, page 122).

1786. May 31. On Committee to report on letter of the Secretary for foreign affairs (*See* Note, page 132).

Drafted Motion of the Delegates of Virginia, respecting our affairs with Spain and the navigation of the Mississippi:—" The United States in Congress assembled having, upon the report of a committee to whom was referred the commission of Don Diego de Gardoqui, on the 20th of July, 1785, Resolved, That the honourable John Jay, secretary to the United States of America for the department of foreign affairs, be and hereby is invested with full power, in behalf of the United States of America, to treat, adjust, conclude and sign with Don Diego de Gardoqui, encargado de negocios of his Catholick Majesty, whatever articles, compacts and conventions may be necessary for establishing and fixing the boundaries between the territories of the said United States and those of his Catholick Majesty, and for promoting the general harmony and mutual interest of the two nations. That the secretary of the United States of America for the department of foreign affairs be and he is hereby instructed, previous to his making propositions to Don Diego de Gardoqui, or agreeing with him on any article, compact or convention, to communicate to Congress the propositions to be made, or received relative to such article, compact or convention.

1786. Aug. 29.

And afterwards on the 25th of August following, upon the report of a committee on a letter of the secretary for foreign affair complaining of the restrictions imposed on him in the said

structions, Resolved, That the last paragraph in the instructions to the secretary to the United States for the department of foreign affairs, passed the 20th of July, 1785, for entering into a treaty, compact or convention with the Encargado de Negocios of his Catholick Majesty, in the words following: 'That the secretary of the United States of America for the department of foreign affairs be and hereby is instructed, previous to his making propositions to Don Diego de Gardoqui, or agreeing with him on any article, compact or convention, to communicate to Congress the propositions to be made or received relative to such article, compact or convention,' be repealed, and that the following be substituted in its place: 'That the secretary to the United States for the department of foreign affairs be and he is hereby instructed, in his plan of a treaty with the Encargado de Negocios of his Catholick Majesty, particularly to stipulate the right of the United States to their territorial bounds, and the free navigation of the Mississippi, from the source to the ocean, as established in their treaties with Great Britain; and that he neither conclude nor sign any treaty, compact or convention with the said Encargado de negocios, until he hath previously communicated it to Congress and received their approbation.'

And the said secretary having, on the 29th of May, 1786, addressed a letter to the President of Congress on the subject of the said negociations to the following effect: 'Office for Foreign Affairs, May 29, 1786.—Sir, In my negociations with Mr. Gardoqui I experience certain difficulties, which, in my opinion, should be so managed as that even the existence of them should remain a secret for the present. I take the liberty therefore of submitting to the consideration of Congress, whether it might not be advisable to appoint a committee, with power to instruct and direct me on every point and subject relative to the proposed treaty with Spain. In case Congress should think proper to appoint such a committee, I really think it would be prudent to keep the appointment of it secret, and to forbear having any conversation on subjects connected with it, except in Congress, and in meetings on the business of it. With great respect I have the honour to be your excellency's most obedient and very humble servant, [Signed] John Jay.'

And upon being afterwards called before Congress to explain, &c. proceeded, in a written statement of August 13th, for the reasons therein contained, to advise, that the United States enter into a treaty with Spain upon the following principles. '1. That all commercial regulations affecting each other shall be founded in perfect reciprocity. Spanish merchants shall enjoy all the commercial privileges of native merchants in the United States, and the American merchants shall enjoy all the commercial privileges of native merchants in the kingdom of Spain, and in the countries and other islands belonging and adjacent thereto. The same privileges shall extend to their respective vessels and merchandise consisting of the manufactures and productions of their respective countries. 2. Each party may establish consuls in the countries of the other, excepting such provinces in Spain into which none have heretofore been admitted, viz. Bilboa and Guipuscoa, with such powers and privileges as shall be ascertained by a particular convention. 3. That the bona fide manufactures and productions of the United States, tobacco only excepted, which shall continue under its present regulations, may be imported in American or Spanish vessels into any parts of his Majesty's European dominions and islands aforesaid, in like manner as if they were the productions of Spain; and on the other hand that the bona fide manufactures and productions of his majesty's dominions may be imported into the United States in Spanish or American vessels, in like manner as if they were the manufactures and productions of the said states: and further, that all such duties and imposts as may mutually be thought necessary to lay on them, by either party, shall be ascertained and regulated on principles of exact reciprocity, by a tariff to be formed by a convention for that purpose, to be negociated and made within one year after the exchange of the ratifications of this treaty; and in the meantime that no other duties or imposts shall be exacted from each others merchants and ships, than such as may be payable by natives in like cases. 4. That inasmuch as the United States, from not having mines of gold and silver, may often want supplies of specie for a circulating medium, his Catholick Majesty, as a proof of his good will, agrees to order the masts and timber which may from time to time be wanted for

royal navy, to be purchased and paid for in specie in the United States; provided the said masts and timber shall be of equal quality, and when brought to Spain shall not cost more than the like may there be had from other countries. 5. It is agreed that the articles commonly inserted in other treaties of commerce for mutual and reciprocal convenience shall be inserted in this; and that this treaty, and every article and stipulation therein, shall continue in full force for —— years, to be computed from the day of the date thereof. In consideration for which we are to forbear the navigation of the Mississippi for —— years.'

The secretary having thus, agreeably to his statement aforesaid, conducted the negociation committed to his care with the Encargado of Spain to a point, it becomes the duty of the United States to examine well the measures they now take, that they may be calculated to secure the friendship of the catholick King, and preserve at the same time the honour and the interests of the confederacy. These must be either in conformity with the opinions of the secretary, or, from a conviction of their impropriety, by adopting some other plan, which shall appear preferable to it; it will therefore be well, in the first instance, to examine the plan itself.—The secretary hath united the project of a commercial treaty with Spain, with the interfering claims of the two powers respecting the boundaries and the Mississippi, and proposes, that to obtain what he terms liberal terms in commerce, we should by compact forbear the use of the navigation of the Mississippi for the period of the treaty; that the claims of the parties respecting the boundaries remain as they are, to be the subject of future discussion and compromise. The project is a plain and simple one. It proposes to give the merchants, the vessels, and the productions and manufactures of each country in the ports of each other, viz. those of Spain in the ports of the United States, and those of the United States in the ports of Spain and the Canaries, the same privileges as if they were those of the country itself. It behooves us, therefore, in the first instance to inquire, what alteration this will make in those instances from the condition on which we now stand. Secondly, whether this alteration, if there should be any, will be beneficial to the United States.

1. As to merchants. We cannot suppose (and believe the contrary to be the case) that the King of Spain makes any discrimination in the ports aforesaid between merchants, his subjects, and those of other nations. The laws of Spain distinguish only articles of commerce, and those into *such as are* and *such as are not contraband;* and the penalties and privileges are precisely the same in both instances in their application to foreigners and subjects. If discriminations therefore in this line can be beneficial, we tie up our hands from extending them to our citizens, without obtaining any consideration for it.

2. As to vessels engaged in the carriage of the manufactures of both countries. Spain hath no navigation act. To the ports which are open, the vessels of all countries are admitted, and in the carriage even of her own productions and manufactures, upon the same footing with those of her own subjects. Here we bind up ourselves again, without a valuable consideration for it.

3. As to productions, &c. The two nations engage to receive those of each other into the ports aforesaid, as if they were their own. With respect to Spain and the Canaries this is certainly the case at present. The productions, &c. of the United States (tobacco excepted, which is hereby excluded) are admitted into the ports aforesaid, in the most liberal manner that the article will admit a construction of, and precisely upon the same terms with similar articles, the growth of the colonies of Spain, in different quarters of the globe: so that this treaty will not open to us a single port, nor admit us into those now open upon better terms than those we now enjoy. Can these positions be controverted, that neither our merchants, our vessels, nor our productions, will be received into the ports of Spain and the Canaries, upon different terms from those on which they are now received? If this is not the case, let the contrary be shown.

But how will the secretary's project affect us? The merchants of Spain shall have in our ports the rights of the native merchants of America. When we consider that our commerce is subjected, in every article, to the most severe restrictions, in almost every foreign port; that under the necessary encouragement given by France and Britain to their own fisheries, th article is excluded from their ports; that the Mediterranean

is shut against us; and that it is the interest of those powers, as it would after this treaty be that of Spain also, it should be so always; that the West India islands are also occluded almost altogether; that the wheat and rice trade is from these causes greatly injured; that the tobacco is a monopoly in the hands of the Farmers General in France; in Spain a contraband. Thus banished from the European countries and their dependencies, one would suppose it the duty of every wise American statesman to secure our rights and interests at home; to give in our own ports to our own citizens exclusive privileges: but of this advantage the project would deprive them.

Spain shall be admitted into the carriage of our productions, &c. upon the same footing that we are into that of hers. If the materials of both parties were such as to employ the same number of vessels in the carriage, such a compact would, on the part of these states, in their circumstances, be unwise. But when we consider how few ships will be employed in the carriage of the productions, &c. of Spain, how unimportant they are in point of bulk and proportion to that of the productions of these states, the disadvantage of the stipulation must obviously occur. How contrary would such a stipulation be to the policy of Great Britain, to the policy of her navigation act, an act which gives to her own subjects, in their intercourse with all other nations, high privileges and immunities they do not enjoy. To the wisdom of this act and her other regulations in commerce, it is owing, that she hath attained to such a height of power and grandeur on the seas, as to be at the same time the terrour and the admiration of the world; that her subjects have obtained such commercial wealth and astonishing resources, as to be able to support her in the most splendid enterprises, and the longest and most difficult wars that her councils could devise, or the change of fortune expose her to. Yet of the right of adopting and pursuing such a system of policy, or in any degree discriminating in favour of our own carriage, would the project deprive us.

Spain shall have a right to bring her manufactures, &c. here, and take off our own, (tobacco excepted) in the same manner as if they were her own. It is difficult to understand the nature of this engagement. If by this it is meant that productions, &c.

of the one shall of right be admitted into the ports of the other, independent of the will of the other, after this treaty for that term, the duties remaining as they are (tobacco only excepted) its operation is very extensive and important. The parties have in that instance given up the right of prohibition or restriction on imports or exports, which do not apply at the time to similar articles of their own. The case is perhaps without a precedent, and one would suppose it never could have one, unless the family compact between the different branches of the house of Bourbon may be considered as such, which was even between those nations found inconvenient; and afterwards by the treaty of Paris, in 1763, annulled. Independent nations have always heretofore retained to themselves the right of regulating their own interiour police, which they could not do if thus connected, and made dependent on that of others, and by that means of securing to themselves a reciprocity in their intercourse with other nations. Many are the purposes to which the exercise of this power in different countries is made subservient, depending in each on a variety of circumstances; the nature of the government, the manners of the people, state of population, resources, and the purposes to which it might incline to turn them, with others, that upon examination might occur. But here they might be defeated. If, for instance, the object was to promote virtue and frugality, by prohibiting the importation of foreign luxuries; if to encourage manufactures and to countenance the mechanical arts at home, by prohibiting imports from other countries, the right by this treaty would be abrogated. In short, the police of these states would be so interwoven with that of Spain, and the management of her own system made so dependent on her will, that we should not be able to act on it afterwards. Such a stipulation would also be contrary to the federal compact; for by it each state retains the right of prohibiting the importation or exportation of any species of goods or commodities whatever. If such then is its purport, it is in direct violation of the compact itself, and of course void. If it is our intention to merit and preserve the confidence of our constituents, we should hold this compact sacred: and if to support any character among the nations of the earth, we should enter into no engagements we cannot fulfil.

is sufficiently low already; we need not debase it further. If, on the other hand, they retain the right of prohibiting, or of encouraging imports and exports, by imposing what duties they may from time to time think proper, under this restriction only, that their subjects and citizens respectively shall pay in the ports of each other the duties of natives only, the effect will be very confined and unimportant. It is still within the power of each nation to suspend all commercial intercourse with the other; for by prohibiting the importation of the manufactures and productions of the other, by its own subjects or citizens, the prohibition is extended to those of the other, and the commerce at an end. Each party still retains the right of contracting with others, and without restraint. For instance, Spain might covenant with France to admit her flour or fish into her ports, paying the duty of five per cent. ad valorem; and afterwards impose twenty per cent. on similar articles from these States. If the same duty on our commodities was imposed equally on her own and our citizens, there would be no violation of the treaty; and thus, while she preserved her faith with us, she would give a monopoly in these articles to France. So that in either view, this stipulation, which the secretary holds to be so liberal and advantageous, will not bear a close examination. It presents at first view, in appearance, plausible colours, but when investigated, will be found to be either mischievous, or at best of no advantage to these United States.

Our treaties with France, the United Netherlands, Sweden, Prussia, &c. stipulate to each, 'the right of the most favoured nation.' These nations, therefore, coming into the terms of Spain, will be entitled to these benefits; and that they will, cannot be questioned; for in so doing, they give up little or nothing. The evils of this project will therefore be almost universal, and of course without remedy. They will also of right require a consideration for so doing, equivalent to the value of the occlusion of the Mississippi. In addition to which the article of tobacco will by compact be excluded from all their ports, as well as from those of Spain.

Spain is, of all countries, the one from whose commercial restrictions we have the least to fear; and of course the one with whom there is the least necessity for our binding ourselves under

any engagements to. Her exports are but few, and her commerce with all nations against her. Encumbered with her immense and opulent colonies, the great exertion of the Spanish Monarchy is to keep them together. The price of an alliance with Britain, is exclusive advantages in trade. This separates her from France; and in the superiority of her fleets puts her commerce and her colonies together into the arms of Britain. Spain will therefore maintain her connexions with France, from whose superiority by sea she hath less to fear, and cultivate the friendship of the United States. A connexion with Britain turns the scale against the other powers in favour of Britain, and makes her a British colony. A connexion with France and the allies of France preserves things as they now stand: we may therefore safely conclude, that as the friendship of the United States must form an essential part of her system, that if she fails in the present object, which from the disposition of the United States (made known to her by the secretary himself at the court of Spain, in the midst of the war, and while surrounded with difficulties) she must calculate on, she will either come forward and grant fully the terms we require, or at least still seek an accommodation by the most friendly and conciliating attention to our interests. By procrastination she will still court our commerce, and continue to exert her influence with the regency of Algiers, &c. for the relief of our prisoners, and with other powers in our favour by bargain. Unless these advantages become a part of the treaty, we lose them.

As to the surrender or forbearance of the use of the navigation of the Mississippi for the term proposed, for the consideration proposed, (the right of the United States to dismember the government being out of the question) it is inadmissable for the reasons above stated; but it is also inadmissable upon the principle of the right, and independent of the right, upon the highest principles of national expedience, which apply even if the commercial project were an advantageous one. In the present state of the powers of Congress, it should be the policy of every wise statesman to pursue such a system of conduct as shall be best calculated to gain the confidence of the several states in the federal councils, and thereby an extension of their powers;

this measure we apprehend would tend to defeat that object. The states who have ceded it, and the confederacy at large, look up to the western lands as a substantial fund for the discharge of the publick debt. The value of these lands will depend in a great measure on the navigation of the Mississippi. By suspending this right we depreciate this fund, unnecessarily burden the confederacy with an additional weight, and proportionally injure the publick creditors. By the compact with Virginia it is stipulated, that the western country shall be divided into states, and admitted with the rights of the original states into the confederacy. The spirit of this compact is, that the territory should retain all its rights, and have them promoted under the patronage of Congress. This act would therefore be a direct violation of it, and have a tendency to fix the weight of population on one side of the continent only. But the dismemberment of the government, which this unquestionably is, without the consent of the state interested, one would suppose would prevent even the consideration of the subject by Congress. That the United States have a right to the free navigation of the Mississippi, and the boundaries as established in the treaty with Great Britain, is a truth too well established in the journals of Congress, and too fully supported by their acts on the subject, to require anything to be said at this day in its favour.. To proceed on a contrary principle would manifest such a contradiction to their former acts, and be such a subversion of the rights of nature and the states, as to lessen them throughout the world. It would also be such a sacrifice for particular purposes, as would be obvious to even the most undiscerning. The right, therefore, cannot now be called in question; nor can it be a principle on which we are to act. 'Can the United States then dismember the government by a treaty of commerce?'

To evince the contrary let us recur to the writers on the laws of nations on the subject. Vattel, vol. i. p. 105. book 1. chap. 21. sec. 260. 'The prince or superiour of the society, whatever he is, being naturally no more than the administrator, and not the proprietor of the state, his authority, as sovereign or head of the nation, does not of itself give him a right to alienate or dispose of the publick property. The general rule then is, that the

superiour cannot dispose of the publick property, as to its substance. If the superiour make use of this property, the alienation he makes of it will be invalid, and may at any time be revoked by his successor, or by the nation. This is the law commonly received by France; and it was upon this principle that the duke of Sully advised Henry fourth to resume the possession of all the domains of the crown alienated by his predecessors.

The nation having the free disposal of all the property belonging to it, it may convey this right to the sovereign, and consequently confer upon him that of alienating and mortgaging the publick property. But this right not necessarily belonging to the conductor of the state to enable him to render the people happy by his government, it is not to be presumed that the nation has given it him; and if it has not made an express law for that purpose, it ought to be maintained that the prince is not vested with it.' Sec. 265. 'The prince, the superiour of whatever kind, has he the power to dismember the state? Let us answer as we have done above with respect to the domain. If the fundamental laws forbid the dismembering, he cannot do it without the concurrence of the nation, or its representatives. But if the laws are silent, and if the prince has received full and absolute authority, he is then the depository of the rights of the nation, and the organ by which it declares its will. The nation ought never to abandon its members, but in a case of necessity, or with a view to the publick safety, and to preserve itself from ruin; and the prince ought only to cede them for the same reasons; but since he has received an absolute authority, he is to judge of the necessity of the case, and what the safety of the state requires.

On occasion of the treaty of Madrid, the principal persons in France assembled at Cognac after the King's return, unanimously concluded that his authority did not extend so far as to dismember the crown, and the treaty was declared void, as contrary to the fundamental laws of the kingdom; indeed it was done without sufficient power, the law in express terms refusing the King the right of dismembering the kingdom: the concurrence of the nation was necessary for this purpose, and it might give its consent by the medium of the States-General. Charles the fifth ought not to have released his prisoner before those very states

had approved the treaty, or rather, making a more generous use of his victory, he should have imposed less rigorous conditions, such as it was in the power of Francis to grant, and with which he could not have refused to comply without shame. But at present, when the States-General do not assemble in France, the King remains the sole organ of the state with respect to other powers: they have a right to take his will for that of all France; and the cessions the King might make them, would remain valid, in virtue of the tacit consent by which the nation has submitted all power into the hands of the King with respect to treaties. Were it otherwise, no certain treaty could be entered into with the crown of France. However, by way of precaution, other powers have often demanded that their treaties should be registered in the parliament of Paris; but at present this formality seems to be laid aside.'

Vol. 2. p. 116. Book 4. ch. 2. sect. 10. 'When a limited power is authorized to make peace, as he cannot of himself grant every condition, in order to treat on sure grounds with him, it must be required that the treaty of peace be approved by the nation or the power which can make good the conditions. If for instance, in treating of a peace with Sweden, a defensive alliance and a guarantee be required for the condition, this stipulation will be of no effect, unless approved and accepted by the diet, which alone has the power of imparting validity to it. The Kings of England conclude treaties of peace and alliance; but by these treaties, they cannot alienate any of the possessions of the crown without the consent of Parliament.'

By the second Art. of the Confederation of these United States, each State retains its sovereignty, freedom and independence, and every power, jurisdiction and right which is not therein expressly delegated to the United States in Congress assembled. This is a fundamental law of the Nation, and the powers granted in the 9th article to make treaties must be construed in subordination to it. No treaty even of peace entered into by the United States in Congress assembled, extending to a cession or suspension of the rights of any of the states without their consent, can therefore be valid; much less can such a treaty of commerce, which in point of political necessity can never be so pressing.

How then shall we proceed in the present critical circumstances with Spain? An honourable arrangement with the court of Spain upon these points, and an advantageous treaty of commerce, though indeed whilst our trade is so restrained by the piratical powers, it will be of less consequence than it otherwise would be, are certainly desirable objects. A continuance of the negociation in the hands of the secretary alone, as his sentiments are now known in Congress, and differ so widely from the opinions of several states in this Confederacy, especially upon the points relative to the Mississippi and the boundaries, would not be advisable. Upon the first point, therefore, it will be proper to instruct our chargé des affaires at the court of Spain to agree with that court on the principles:—the treaty ultimately to be concluded here—that it be negociated under the mediation of France. Upon the second it will be proper, agreeably to the arrangement at Annapolis, that two other commissioners be appointed with Mr. Jay, the consent of the majority of whom shall be necessary to conclude the treaty.

It is to be observed that the secretary hath no power to treat on the subject of commerce, being confined solely to the interfering claims of the two parties as above. The power to form such a treaty with Spain having been committed to Messrs. Adams, Franklin and Jefferson, at Annapolis, of 7th May, 1784, under a commission which had then one year to run, with all the other powers of Europe, upon principles then agreed on as applying to all. This must be the more obvious from the care the United States have always taken to establish the principles in Congress upon which their treaties should be formed, and making their ministers the instruments only of their will, especially at Annapolis, in 1784, when their system of commercial policy to be established in treaties was, after mature consideration, agreed to, and men appointed from different quarters of the Union, as being necessary to concentre a representation of the different interests. Can it be supposed then, that the commission of these gentlemen with respect to Spain, without even mentioning it, or agreeing on the principles in the instructions to the secretary, or even mentioning the subject of trade in said instructions, were repealed, and he thus loosely authorized to form a treaty of com-

merce? That their interfering claims, however, may be amicably settled, and that the two nations may enjoy reciprocal advantages in trade, it is hereby—Resolved, That the chargé des affaires of the United States at the court of Spain be instructed to assure his Catholick Majesty of the high regard the United States entertain for his friendship and of their earnest desire to cultivate and preserve always the best understanding between his Majesty and the said States. That as an evidence of this disposition they are willing to settle their interfering claims respecting the Mississippi, and the boundaries, upon the following principles. 1. That New Orleans be made an Entrepot for the reception of the bona fide produce of the United States brought down the river Mississippi by the citizens of the said states: such produce to be landed at said port for exportation. That the said citizens be at liberty to return with their boats empty, or with passengers only, up the Mississippi to the places from whence they came. 2. That such produce aforesaid shall pay there, or the merchants exporting it give bond for the payment within six months from the date, of a duty not exceeding —— per cent. ad valorem at the time of exportation, to the crown of Spain. That such produce aforesaid shall be exported thence in Spanish, American or French vessels, those in the bottoms of Spain under the regulations of Spain, and those in the bottoms of America and France under the regulations of the two countries, by treaty or otherwise. That imports of every kind and country to the said port and up the said river, in American and French bottoms, be prohibited; and that all vessels engaged in transportation of said exports shall come to such port in ballast only. That the United States be authorized to appoint a consul to reside at New Orleans, who shall be responsible for any violation of these stipulations by the citizens of the United States. That American factors be permitted to reside at said port for the management of the business of exportation only. That as to the boundaries, they must insist on those established in their treaty with Great Britain. And further to assure his Catholick Majesty, that so soon as instructions shall be given to his minister in these states to this effect, the United States will authorize their minister to conclude a treaty in conformity herewith. But that they cannot enter into any treaty or compact

whatsoever with his Catholick Majesty on the said subjects upon any other terms or conditions whatsoever.

That the honourable Mr. Jefferson be furnished with a copy of these instructions, and directed to make known to his most Christian Majesty the sincere regard they have for his person and family, the gratitude they bear for his former good offices, and of the earnest desire they have of his friendly Mediation with the Catholick King, that by his interposition the interfering claims of the two nations may be amicably settled.

That the resolutions of the 20th July, 1785, and the 25th of August following, authorizing the secretary of foreign affairs to treat with Don Diego de Gardoqui respecting the boundaries and the Mississippi, in the words above recited, be and they are hereby repealed.

That two commissioners be appointed and associated with the secretary of foreign affairs, with powers to enter into a treaty with Don Diego de Gardoqui, or such other person as his Catholick Majesty shall appoint, upon the following principles: Upon the Mississippi and the boundaries as above; but that they receive no proposition on the said points until he shall be authorized by his said Majesty to accede to the said terms.

That they be authorized to enter into a commercial treaty with Spain upon the following principles: 1st, That each party shall have a right to carry their own produce, manufactures and merchandise, in their own bottoms, to the ports of the other, paying in both cases such duties only as are paid by the most favoured nations, freely where it is freely granted to such nation, or paying the compensation where such nation does the same; and so on as in the 3d, 4th, 5th, 6th, 7th resolutions of the 7th of May, 1784." [*See* proceedings on relations with Spain, Secret Journal. Foreign Affairs, vol. iv. pp. 81–131.]

1787. Elected again to the Assembly of Virginia.

1788. Member of the Virginia Convention to ratify the Federal Constitution.

1790. Dec. 6. Produced his credentials and took the Oath of Offic as United States Senator from Virginia.

1790. Dec. 14. On Committee to consider and report on the ? morial of the Kentucky Convention.

1790. Dec. 28. On Committee to take into consideration the report of the Secretary of State, on the uniformity of coins, weights and measures.

1791. Jan. 28. On Committee on bounty lands to the officers and soldiers of the Virginia line, Continental Army.

1791. Feb. 7. On Committee on the establishment of the Mint.

1791. Feb. 9. On Committee on the President's message on the admission of Vermont into the Union.

1791. Feb. 21. On Committee on the establishment of land offices.

1791. Feb. 24. Moved "That it be a standing rule, that the doors of the Senate Chamber remain open whilst the Senate shall be sitting in a legislative capacity, except on such occasions as, in their judgment, may require secrecy; and that this rule shall commence and be in force on the first day of the next session of Congress. That the Secretary of the Senate request the Commissioners of the City and County of Philadelphia to cause a proper gallery to be erected for the accommodation of an audience." [The Senate sat with closed doors during its legislative as well as its Executive sittings, from the beginning of the first Congress up to the 20th. of February 1794, when Monroe's repeated propositions to open the session of the Senate to the People finally succeeded.]

1791. March 1. On Committee to consider the rates of foreign coins.

1791. March 3. Reported on bounty lands, and classification of claims of officers and soldiers of the Virginia line. (*See* Annals of Congress.)

1791. March 4. Re-appointed and qualified as Senator from Virginia.

1791. April 10. On Committee on the location of a land warrant for Ephraim Kimberly for services during the Revolution.

1791. May 6. Moved to introduce bill providing, under certain limitations, for a suspension of the 4th. Article of the Treaty of Peace.

1791. May 8. On Committee to consider and to bring in a bill for making further and more effectual provision for the protection of the frontiers of the United States.

1791. May 22. On Committee on the settlement of Loan Office Accounts.

1791. May 24. On Committee to consider and report measures to be immediately adopted for the National defence.

1794. May 27. Nominated Minister Plenipotentiary of the United States to the Republic of France.

1794. May 28. Confirmed.

I James Monroe aid de Camp to Major General Lord Stirling — 88 do acknowledge the UNITED STATES of AMERICA to be Free, Independent and Sovereign States, and declare that the people thereof owe no allegiance or obedience to George the Third, King of Great-Britain; and I renounce, refuſe and abjure any allegiance or obedience to him; and I do Swear that I will, to the utmoſt of my power, ſupport, maintain and defend the ſaid United States againſt the ſaid King George the Third, his heirs and ſucceſſors, and his or their abettors, aſſiſtants and adherents, and will ſerve the ſaid United States in the office of Aid DeCamp which I now hold, with fidelity, according to the beſt of my ſkill and underſtanding.

Sworn before me at Valley Forge Camp may 16th 1778 } Jas Monroe Stirling major Gen.

I am indebted to the interest and courtesy of Colonel F. C. Ainsworth, Chief of the Record and Pension Office for this facsimile of Monroe's Valley Forge Oath. I have also to thank Mr. George W. Pratt of Colonel Ainsworth's force.

THE WRITINGS OF JAMES MONROE.

TO GENERAL WASHINGTON.[1]

June 28, 1778.

SIR,—Upon not receiving any answer to my first information and observing the enemy inclining toward your right I thought it advisable to hang as close on them as possible—I am at present within four hundred yrds. of their right—I have only about 70 men who are now fatigued much. I have taken three prisoners—If I had six horsemen I think If I co'd serve you in no other way I sho'd in the course of the night procure good intelligence w'h I wo'd as soon as possible convey you.

I am Sir your most ob't Serv't

JA.S MONROE.

L.t Col.o Basset is with me and wishes the same. 4 o'clock.

[1] From the field of Monmouth. In General Orders, White Marsh, November 20, 1777, Monroe was appointed aid, with the rank of Major, to Lord Stirling, who commanded the left wing of the army as re-formed by Washington after he had checked the retreat of General Charles Lee. Monroe with his command had been charged with the important duty of following the enemy's movements and of reporting them to Lord Stirling and also directly to the Commander-in-chief.

TO GENERAL CHARLES LEE.

AYLETT'S WAREHOUSE, June 15th (1780).

MY DEAR GEN^L,—I am happy in accidentally meeting with a neighbor of y^rs who tells me he lately left you well & contented with your retir'd life. I am extremely anxious for your welfare & often most sincerely lament that the temper of this continent should be such as to render it expedient for you to return to Berkley. When I left you in Phil^a, my wish and expectation was immediately to go to Europe; on my coming to Virginia, being under age, I found it difficult to make such disposition of my property as wo^d admit of it. I meant however to go this fall, & as I wish'd to go in the character of an officer, for that purpose I went up to H^d Q^rs by Phil^a (where I wish'd much to have seen you) to require from His Excell^y & Ld Stirling a certificate of my good conduct. This I meant to present to the Virg^a Assembly & from them procure an appointment. His Excellency gave the letter I co^d have wished & Ld Stirling also treated me with gentlemanly politeness. What I have to expect from this Assembly is incertain, but as they have no interest in the appointment I desire, I believe I have no probable grounds to found hopes on. I am retiring from them to my Uncle's, Mr Jones, near Fredericksb^g, (the Chief Justice of this State) wher I propose staying perhaps this year. If it was m house, my d^r general you sho^d make it yours, but present I only live in expectation of it. I may h ever take the liberty with my uncle to press yo you come that way to call & see me. Be so kin

write me, and direct to Fredericksb^{g} to inform me where I may wait on you. I am solicitous for y^{r} interest & wish to consult you on my plan.

I am dear General with sincere esteem y^{r} friend & very humble Servt

Ja^{s} Monroe.

The H^{able} Major Genl. Lee [1]
Berkley Cty.

TO THE GOVERNOR OF VIRGINIA.
(THOMAS JEFFERSON.)

Cross Creek, June 26, 1780.

Sir,—Some few days since I arrived here & trust I have so arranged the line of communication between us,[2] that whatever alterations the course of events may effect in my own situation, I shall have it in my power to make it subservient to my wishes. I expected I should more effectually put in execution your Excellency's orders by coming immediately here, the source from which Governor Nash at Newberry or Baron de Kalb at Hillsborough get their Intelligence, then by taking my route to either of those

[1] "The good figure you make flatters my vanity, as I have always asserted that you wou'd appear one of the first characters of this country, if your shyness did not prevent the display of the knowledge and talents you possess. Mr White tells me you have got rid of this mauvaise honte, and only retain a certain degree of recommendatory modesty. I rejoice in it with all my soul, as I really love and esteem you most sincerely and affectionately. . . ." —General Lee's reply, July 18, 1780.

[2] The want of intelligence concerning the southern movements of the enemy, and the anxieties felt on that account, necessitated the sending of a trustworthy person to observe them. Jefferson, then Governor of Virginia, entrusted this mission to Monroe. Congress expressed its appreciation by continuing this important line of communication, established by Jefferson and Monroe, from Philadelphia to Washington's headquarters.

posts & I have had the good fortune in meeting Governor Nash here to approve my determination. The Governor was on his route to Baron de Kalb & called upon General Caswell here with a view of making himself acquainted with his force and object, in order to concert some regular & connected plan of either offensive or defensive action, as circumstances might admit, for the protection of the country. I have it not in my power to give your Excellency at present, information upon all the points you require, but an event we are informed has taken place of such importance in its probable consequences to the State of Virginia, as to make it necessary I should immediately inform you of it. We have it from authority we cannot doubt, that an embarkation has taken place at Charlestown and sailed some days since under the command of General Clinton, consisting of about 6000 men. The remainder of their army, supposed upwards of 4000, with their cavalry forming a corps of 600 under Col. Tarleton, are left behind under Lord Cornwallis. General Caswell has repeatedly had information, they had embarked, but never 'til today that they had sailed, & today I examined myself two men of Woodford's Brigade, lately escaped from Charlestown, who confirm it. A Garrison of about 800 are said to be left at Charlestown ; 2500 at Camden ; the cavalry are stationed about 40 miles above Camden ; about 600 of the 71st regiment on the river Peedee between Long Bluff and Ansons Court House. What may be the object of those who have sailed or of those who remain is uncertain and must depend on

the part the Court of France means to take this year in our favor; but if we may judge from the view which has hitherto evidently influenced their councils (if no internal event has happened to their prejudice) provided they act on a consistent plan, we must conclude they mean to land somewhere in Virginia, and by directing their armies to the same object endeavour to Conquer all these Southern States. Upon this Principle I am inclined to think their operations have of late been taken and that upon this principle they will determine. What again would induce this belief & with me it is only an inferior circumstance (for upon principles of expedience they should act thus) is the universal scarcity of all kinds of provisions, except meat, which prevails in this country. Upon this account the army under General de Kalb at Hillsborough and that under General Caswell here, are no longer able to hold those stations and are in that dilemma, that they have only the alternative of advancing shortly on the enemy or retiring to Virginia. This however will in a great degree be remedied when the harvest comes in. What plan General de Kalb may take to oppose them I cannot determine, but as that which the enemy have adopted creates a division of their force, ours also must necessarily be divided and in that case rather than hang or temporize between them, I doubt not he will take a decided part against this body, I mean I hope he will keep on their left flank and harass and retard them in all their movements as much as possible. Their forces have been pointedly directed against the Continental Troops;

and to get the country and throw them down on the sea coast would necessarily be a great object. A considerable advantage, also arising from the position I have suggested, would be that the troops who oppose this army & those who oppose that which may land in Virginia might act on a common principle & when the enemy effect a junction they might join also, still keeping the command of the country. This plan has not the protection of any particular spot but is on a larger scale & has Independence for its object; acting on any other principle and taking particular positions for particular purposes, may lead the respective corps into danger & perhaps ruin.

Genl. Clinton previous to his departure issued a Proclamation discharging all who had taken them from their paroles & requiring their immediate attendance to swear allegiance and bear arms in favor of his Sovereign declaring that all who refuse to comply with these reasonable terms, who shall be found in arms hereafter in favor of the rebellion shall not be treated as soldiers & prisoners of war; but as banditti & Robbers. I have not seen the Proclamation but Govr. Nash who has, tells me this is the purpose of it. Only 1500 militia are collected here under General Caswell & about 1,100 under Brig. Rutherford, west of the enemy, who hold the position I could wish Baron de Kalb to take with the Continental Troops at least. At Charlotte, Salsbury or Chatham the country is better able to support an army & when Harvest comes in will be more so, while

that near here or towards the coast is much exhausted. Between here and Halifax it is so much so (and I am told by the inhabitants on the road that want is not confined to them alone but extends considerably to the Right & left) that I could scarcely get provisions for myself & men & in many instances could not procure corn for my Horses at any rate. The Governor of this State has extensive powers & except when it affects the life—the advice of Council he knows no restraint on his will. He also seems well disposed to act with that firmness & descision in most instances which the unhappy state of his country requires, without regard to any local or personal enmity which may arise against him in the discharge of the duties of so important a trust. He is constrained to emit money constantly as occasion requires & has now ordered out 4,000 Militia in addition to those I have mentioned as already in the field. At Govr Nash's request I shall attend him tomorrow to where Baron de Kalb may be, or if the Govr does not go himself, shall perhaps go up on the business I have referred to & in my next shall have it in my power to inform your Excellency of the plan Baron de Kalb may take for his future operations, with the probability of success, or what effect it may have on the movements of the enemy.

I have the honor to be with the greatest respect and esteem yr. Excellencys

Very humble Servt

Ja^s^ Monroe.

P. S. I cannot inform you where Porterfield is;

but expect somewhere near the Baron. Colº Armand's Corps are here under command of Genl. Caswell. We have had reports a French fleet are off C. Town but not from such authority as to give assent.

TO THOMAS JEFFERSON.

RICHMOND, Sepr. 9, 1780.

DEAR SIR,—Your kindness & attention to me in this & a variety of other instances has really put me under such obligations to you that I fear I shall hardly ever have it in my power to repay them. But believe me in whatever situation of life ye chance of fortune may place me, no circumstance can happen wch. will give me such pleasure or make me so happy, at present or during my progress thro' life, as to have it in my power to convince you of ye proper impressions they have made on me. A variety of disappointments with respect to ye prospects of my private fortune previous to my acquaintance with your Excellency, upon w'ch I had built as on ground w'ch co'd not deceive me, & w'ch fail'd in a manner w'ch co'd not have been expected, perplex'd my plan of life & expos'd me to inconveniences w'ch had nearly destroy'd me. In this situation had I not form'd a connection with you I sho'd most certainly have retir'd from society with a resolution never to have enter'd on ye stage again. I co'd never have prevail'd on myself to have taken an introduction to ye Country, or to have deriv'd any advantages or even to have remain'd in connection with one by whom I felt myself

injur'd, but whose near relationship & situation in life put it in his power to serve me. In this situation you became acquainted with me & undertook ye direction of my studies & believe me I feel that whatever I am at present in ye. opinion of others or whatever I may be in future has greatly arisen from y'r friendship. My plan of life is now fix'd, has a certain object for its view & does not depend on other chance or circumstance further than ye same events may affect ye. publick at large. In ye late instance when we were threatened by an invasion from ye south, our prospects were so gloomy & ye. danger so iminent that I thought it ye duty of every citizen to turn out & bear a part in repelling ye invasion. The attention of y'r Excellency & Council paid me in calling on me to perform ye. duties of so important a trust at so critical a time if it had gone no further than intimating ye. good opinion you severally entertain'd of me, I knew did me honor & gave me more pleasure than any pecuniary compensation I cod. possibly derive from it. I was happy in undertaking ye charge with a view of performing some service to ye country & also of assuring you, that even in an affair w'ch had so distant a relation to you, how effectually you might command my small services. My plan of taking nothing for any little service I might do ye publick in this cause did not commence with my late employment: during ye. greater part of my service in ye. army I had not my expenses borne, & as in this instance, I have only acted ye part w'ch ye opinion of ye duty I owe to ye publick dictated & w'ch many

worthy Republicans are now acting without even similar compensation, it is my wish not to deviate from it. Under ye present direction my prospects are fix'd & altho' my private fortune is but small still it is sufficient for my maintenance in ye pursuit of them. Colo. Dawson waited on me ye other day & propos'd my bearing part with him in his present undertaking. I excus'd myself by every argument wch. my situation & ye nature of his plan wo'd admit of & had been happy to have evaded it altogether. I represented to him ye nature of things in that country & that ye ultimate advantage w'ch ye success of his plan co'd effect wo'd be ye driving ye enemy into Chas.town from w'ch they might advance so soon as ye militia moulder'd away. I wish'd him, as Council are making every exertion in their power for ye defence of that Country to change his view & rather form a corps within ye state or one more immediately for its defence rather than to go in search of adventures more remote w'ch promise at best but little advantage to our friends while it exhausts & weakens ourselves. But promis'd if he co'd get no one more capable or whose private circumstances wo'd better dispense with their absence than myself, if his plan succeeded I wo'd bear a part. If I can possibly avoid it I mean not to leave my study a day, but if in ye progress of things I sho'd be so circumstanc'd as in y'r opinion I ow'd it to myself or ye publick to bear a part, so far as ye publick interest will be forwarded by furnishing myself or ye troops I command with necessaries so far I shall be happy to receive them.

You will forgive ye liberty I have taken in writing you a letter of this kind. Y'r kindness has really led me into it. & at ye same time it enables me to explain some part of my conduct I am happy that it gives me an opportunity of assuring you how just a sense I have of y'r good offices. I have ye honour to be, Dear Sir, with great respect & esteem y'r sincere friend & very humble serv't JA^{s} MONROE.

TO THOMAS JEFFERSON.

FREDERICKSB'G, June 18, 1781.

DEAR SIR,—I some time since address'd a letter to you from a small estate of mine in King George whither I had retir'd to avoid ye enemy from ye one I lately dispos'd of on ye Patommack river. I had then ye pleasure to congratulate you on ye safe retreat from Richmond to Charlottesville & anticipated ye joy y^{r} self & family must have felt on y^{r} arrival at Monticello from w^{h} ye misfortune of ye times has long separated you. I lament y^{r} felicity on that head was of but short duration.[1] I hope howe'er that neither y^{r}self nor Mrs. Jefferson has sustain'd injury from

[1] In May, 1781, in anticipation of an attack on Richmond, the legislature adjourned to meet in Charlottesville, May 24, and Governor Jefferson returned to his home at Monticello, in sight of Charlottesville. In the beginning of June, Colonel Tarleton, with two hundred and fifty of his legion, started on a raid on Charlottesville, in the hope of capturing the legislature and the Governor. He arrived there on the 4th of that month, to find that the birds had flown. They had received warning of his coming, a few hours before, and barely escaped. Jefferson did not leave Monticello until he was informed that the British cavalry was ascending the hill of Monticello. Then he mounted his horse, took a mountain road, and joined his family, which he had sent on before, at his estate in Bedford, about eighty miles southeast of Charlottesville.

these obtrusions of ye enemy. In a former I advis'd you I wo'd not stay at home in ye present state of ye country & sho'd be happy to bear some part in her defence: for that purpose I sate out to join ye Marquis' Army to act in any line either himself or Council wo'd employ me in. Being confin'd here some few days with small indisposition Gen'l Weedon has requested of me to sit out this Ev'g to manage ye British flag on its way to Alexandria. So soon as I disengage myself from this affair, I shall join ye army & serve till ye enemy leave this State. I earnestly wish to leave ye Continent & shall not alter my plan unless our publick affairs change materially. Whither you continue in your determination to retire from office I hope to see both y'^r^self & family in ye course of ye year. If we [*mutilated*] & in ye former instance I sho'^d^ find you at Stanton[1] on my way to ye Springs. Otherwise God knows where we shall be. Be so kind as to make my best respects to Mr^s^. Jefferson & believe me with ye greatest esteem & regard y^r^ friend & servant, JA^s^ MONROE.

TO THOMAS JEFFERSON.

CAROLINE, Oct, 1, 1781.

DEAR SIR,—I propos'd to myself the pleasure of visiting y'^r^ self & family before this at Monticello but ye prospects below & ye arrival of Gen'l Washington in ye State induc'd me to postpone ye trip of pleasure to ye less agreeable one to camp upon y^e^

[1] On the 7th of June, the legislature reassembled at Staunton, forty miles from Charlottesville, on the other side of the Blue Ridge.

Idea of bearing some small part in bringing about ye event we all so anxiously wish for. With this view I waited on Gov. Nelson & solicited some command in ye Militia but was inform'd ye Militia in ye field was officer'd & of course that I co'd procure none whatever. This wo'd have mortified me much had I not discover'd during my continuance with ye army that Gen'l W. had under his command 15000 regular troops, a force certainly very sufficient to reduce ye post at York. On ye contrary upon being well inform'd of our force & ye propriety of ye appointments thro' ye whole, I was ye rather surpris'd ye militia were detained at all, more especially when we take into consideration ye difficulty of supply, for surely in ye present state of things ye militia will not render sufficient service to counterbalance ye quantity of provisions they consume. I had, however, ye good fortune to effect a point w^{h} since ye interruption of our civil affairs in this state I have been very desirous to accomplish & in ye expedience whereof was so happy as to have y^{r} concurrence when with you last at Richm^{d}. Colo. Josiah Parker has a ship just ready to sail to France & has been so kind as to offer me a passage in her, w^{h} I have accepted. I sho'd be happy to wait on you before I sail & shall be sincerely sorry to leave ye continent without wishing y^{r} self & family health & happiness in person, but as we sail ye 10th or 12th of next month from some port south of Portsmouth & I have much business to transact in these days I shall be at home, am unfortunately depriv'd of that pleasure. I have to desire of you a letter to

each of our Ministers & also y^r^ advice upon ye plan I had better pursue as also where I had better visit. Since my return from Richm'd I have liv'd a very sedentary life upon a small estate I have in King Georges in course of w'h time have read all ye books you mention on ye subject of law. I have made such a disposition of ye property I sold in Westmorel'd as to give me an interest nearly competent to my purpose without injuring ye principal. I mean to convey to you that altho' I shall most probably be glad some time hence to acquire more by ye practice of ye law (if I have it in my power) I wo'd still wish to prosecute my studies on ye most liberal plan to qualify myself for any business I might chance to engage in. This if not profitable will be agreeable, for surely these acquirements qualify a man not only for publick office, but enable him to bear prosperity or adversity in ye capricious turns of fortune, with greater magnanimity & fortitude, by giving him resources within himself, of pleasure & content w'h otherwise he wo'd look for in vain from others. I wish you to say whether if I am so fortunate as to sail & arrive safe you wo'd advise me to reside altogether in ye South of France or (if possible) spend a year at ye Temple in London before my return. I write you on my return home from below from Mr Taliaferro's & as I have not a moment to lose have only time to add that whatever commands you will favor me with I shall be happy to execute & that I am with my best respects for Mr^s^ Jefferson. y^r^ sincere friend & very humble servant,

Ja^s^ Monroe.

TO THOMAS JEFFERSON.

RICHMOND, May 6, 1782.

DEAR SIR,—Mr. Short being just setting out for Monticello I am happy to take ye opportunity to assure you how sincerely I thank you for ye late instance of y^r^ kindness and attention to me, w^h^ I particularly value as a testimony of y^r^ regard for me, & at ye same time to assure you that nothing but a series of disappointments in ye vessels I had appointed to sail in, depriv'd me of ye opportunity of availing myself in that instance of ye advantage it w'd have given me. Mr. Short will inform you of my appointm't in ye House, upon declining ye other plan, & how very anxiously I wish y^r^ arrival & how very sincerely I join ye better part of this community in my desire that a few days more will give us y^r^ aid in ye House & Society to y^r^ friends. I have only time to desire my best respects to Mrs. Jefferson & assure I am with great respect & esteem y^r^ sincere friend & servant, JA^s^ MONROE.

TO THOMAS JEFFERSON.

RICHMOND, 11 May, 1782.

DEAR SIR,—As I so lately wrote you by Mr. Short & have since daily expected to see you here I did not propose writing you till after I sho'd have that pleasure; but as I begin to fear you will not abate that firmness & decision w'ch you have frequently shewn in ye service of y'r country even upon this occasion & as I have had an opportunity since I wrote last of

being better inform'd of ye sentiments of those whom I know you put ye greatest value on, I think it my duty to make you acquainted therewith. It is publickly said here that ye people of y'r county inform'd you they had frequently elected you in times of less difficulty & danger than ye present to please you, but that now they had call'd you forth into publick office to serve themselves. This is a language w'ch has been often us'd in my presence & you will readily conceive that as it furnishes those who argue on ye fundimental maxims of a republican government with ample field for declamation, the conclusion has always been, you sho'd not decline ye service of yr country.[1] The present is generally conceiv'd to be an important era w'ch of course makes y'r attendance particularly necessary, & as I have taken ye liberty to give you ye publick opinion & desire upon this occasion, & as I am warmly interested in whatever concerns ye publick interest or has relation to you, it will be unnecessary to add it is earnestly ye desire of, Dear Sir, y'r sincere friend & servant, JA^{S} MONROE.

[1] This and the preceding letter were written by Monroe for the purpose of inducing Jefferson to change the resolution he had announced of retiring from public life. The expedition of Benedict Arnold in January, 1781, resulting in the capture of Richmond and an immense destruction of public and private stores had greatly distressed the people of that State, and they were inclined to hold Jefferson, as Governor, responsible. In fact George Nicholas, a young and impulsive delegate from Jefferson's own county, had openly charged him in the House of Delegates with neglect of duty, and demanded an inquiry into his conduct. This was promptly accepted by Jefferson's friends, and the investigation was set down for the next session. Jefferson's term of office expired June 1, 1781, and General Thomas Nelson succeeded him.

Before the legislature met again Cornwallis had surrendered at Yorktown, and discontent and despondency had given way to rejoicing and triumph. The

TO THOMAS JEFFERSON.

RICHMOND, June 28, 1782.

DEAR SIR,—I am sorry I have had no opportunity or sho^d have answer'd y^r favor by ye servant sooner, indeed sho'^d have wrote by him but was so unlucky as

people returned to their sense of justice, and were now anxious to right the wrong they had done their Governor. His fellow-citizens of Albemarle unanimously elected him a member of the House of Delegates, and when the time appointed for the inquiry arrived Jefferson was present and declared his readiness to answer the charges. No one appeared to prosecute them. Their author, George Nicholas, had become convinced of their injustice, and subsequently published a letter in which he frankly admitted his error. The legislature then passed the following resolution, without a dissenting voice:

"That the sincere thanks of the General Assembly be given to our former Governor, Thomas Jefferson, Esquire, for his impartial, upright, and attentive administration, whilst in office. The Assembly wish in the strongest manner to declare the high opinion which they entertain of Mr. Jefferson's ability, rectitude, and integrity, as chief magistrate of this Commonwealth, and mean by thus publicly avowing their opinion, to obviate and to remove all unmerited censure."

But this vindication did not satisfy Jefferson. He felt that he had been cruelly treated by the people whom he had spared no labor or sacrifice to serve; his sensitive spirit refused to accept the resolution of the Assembly as a compensation for the wrongs he had suffered, and he was unwilling to continue in a service which rendered him such ungrateful returns. How deeply he had taken the matter to heart is shown by his reply to Monroe.—See *The Writings of Jefferson*, vol. iii., p. 56.

On the 13th of June, 1781, Jefferson had been appointed a Minister Plenipotentiary, with Adams, Franklin, Jay, and Laurens as his colleagues, to negotiate a peace with Great Britain. But he was unwilling to leave the country while the charges were pending in the legislature, and declined the appointment. This appointment was renewed November 13, 1782. Meanwhile he had lost his wife, to whom he was devotedly attached, and in the hope that a change of scene might tend to mitigate his sorrow, he accepted the appointment, and made his arrangements to leave the country in a French man-of-war which had been placed at his disposal. For this purpose he proceeded to Baltimore, and waited there some time. The capes of the Chesapeake were blockaded by a British squadron, and while awaiting an opportunity to run the blockade, news arrived in this country of the negotiation of preliminary articles of peace, and Congress determined that it would be unnecessary for him to proceed. In June, 1783, the Virginia Assembly elected him at the head of its delegation to Congress, and associated with him, as his youngest colleague, James Monroe, then twenty-five years of age.

not to see him while in town. I have been much distress'd upon ye subject of Mrs. Jefferson & have fear'd, as well from what you suggested y'r self as what I have heard from others, that y'r report of each succeeding day wo'd inform me she was no more. Indeed this was awhile reported & believ'd, but I flatter myself that in this instance I shall experience that common fame, who when she has propagated reports unfavorable to myself & my friends I have rarely found to be groundless, has fail'd & that it may please heaven to restore our amiable friend to health & thereby to you a friend whose loss you wo'd always lament, & to ye children a parent wh. no change of circumstance co'd ever compensate for. You will forgive this obtrusion on an affair w'h tho' greatly you are not singly interested in, & as I necessarily suppose you are entirely engaged in an attention to & discharge of those tender duties w'h her situation unhappily requires, from you & so anxious & deeply interested in ye prospect of an event w'h so materially concerns ye peace & tranquility of y'r family, I shall forbear to trouble you with an answer to that part of y'r letter w'h respects y'r retreat from publick service. This I shall postpone either till I see you or till I hear ye situation of y'r family will leave y'r mind more at ease & leisure to attend to a disquisition of ye kind & in ye meantime beg leave to assure you that nothing will give me so much pleasure as to hear of Mrs. Jefferson's recovery, & to be inform'd of it from yourself. I forgot in my last to inform you I had receiv'd ye parliamentary debates & annual register from M'

Buchanan & to assure you I will keep them for ever as a testimony of your friendship & esteem. Believe me to be, Dear Sir, very sincerely your friend & servant, JA.S MONROE.

P.S. Your letter to Pelham I sent off instantly & receiv'd a verbal message by my servant that no answer was necessary. You have perhaps heard of my appointm.t in Council. Engag'd as you are in domestic duties permit me to assure you I wish, so soon as circumstances will permit you, to correspond regularly with you & to have y.r advice upon every subject of consequence.

TO GEORGE WASHINGTON.

RICHMOND, 15 August, 1782.

DEAR SIR,—You will pardon the liberty I take in writing you upon a subject w'ch has no relation to the publick interest when I inform you I am induc'd thereto merely from a principle of gratitude to make acknowledgment for the personal service I have rec'd from y'r Excellency. The introduction you gave me some time since to this State, for the purpose of attaining some military appointment to place me in the service of my country in a line with those worthy citizens, with whom common hardship & danger had nearly connected me, altho' it failed me in that instance has avail'd me in another line.[1] Upon relin-

[1] In 1779, Monroe, after having served two years on the staff of Lord Stirling, was anxious to obtain a position in the Continental line. Failing in this by reason of the unwillingness of the regular line officers to yield to his claims, he determined to return to Virginia and seek employment in the State service. To assist him in this, Gen. Washington gave him a letter to Col. Archibald

quishing my military pursuits, w'ch I did with reluctance, & returning to those studies in w'ch I had been engag'd previous to my joining y'r army, till of late I have been literally a recluse. Having gone thro' that course w'ch in the opinion of Mr. Jefferson to whom I submitted the direction of my studies, was sufficient to qualify me in some degree for publick business, in my application to my county in the first instance & in the subsequent appointment of the Assembly to the Executive Council of the State I have had the pleasure to experience y'r friendly letter in my fav'r of essential service to me. If, therefore, I was so fortunate in the manag'ment of my conduct more immediately under y'r eye as to gain y'r good opinion & esteem I flatter myself that in the discharge of the

Cary, then one of the most influential men in the State. As Chairman of the Committee of the Whole in the Virginia Convention of 1776, he had reported the resolution instructing the delegates in Congress to propose independence, and when a committee consisting of the ablest men in the Convention was appointed to prepare a declaration of rights and a plan of government for the State, Cary was placed at its head. "It was from his lips, that the words of the resolution of independence, of the declaration of rights, and of the first constitution of Virginia first fell upon the public ear." On the organization of the State government under the new Constitution, he was chosen Speaker of the Senate, and held that office at the time of his death, in 1786. His unswerving devotion to principle and his indomitable courage had won for him the sobriquet of "Old Iron." When, during the invasion of the State, there was some talk in the Assembly of declaring Patrick Henry dictator, Cary met Col. Syme, Henry's half-brother, in the lobby of the House, and thus accosted him: "Sir, I am told that your brother wishes to be dictator. Tell him from me, that the day of his appointment shall be the day of his death; for he shall find my dagger in his heart before the sunset of that day."

Washington's letter to Cary shows the high opinion the Commander-in-chief had formed of the young soldier, then just twenty-one years old.

HEAD QUARTERS, 30 May, 1779.

DEAR SIR,—I very sincerely lament that the situation of our service will not permit us to do justice to the merits of Major Monroe, who will deliver you

duties of my present office & a faithful observance & attention to the confidence repos'd in me by my country I shall take no step w'ch will entitle me to forfeit theirs or give you cause to repent y'r prepossession in my fav'r. A conscience that I had in some degree merited y'r approbation & that of the Gentlemen of the army with whom I had the honor to associate, gave me a consolation & a pleasure in my subsequent retir'ment, tho' wound'd & chagrin'd at my disappointment from the State, w'ch I co'd not have derived from any other source. If in the line of my present appointment fortune sho'd put it in my power to pay attention to or obey in any instance y'r Excellency's commands believe me she co'd not confer a fav'r on me, I sho'd receive with greater pleasure from her

this, by placing him in the army upon some satisfactory footing. But as he is on the point of leaving us, and expresses an intention of going to the Southward, where a new scene has opened, it is with pleasure I take occasion to express to you the high opinion I have of his worth. The zeal he discovered by entering the service at an early period, the character he supported in his regiment, and the manner in which he distinguished himself at Trenton, when he received a wound, induced me to appoint him to a Captaincy in one of the additional regiments. This regiment failing from the difficulty of recruiting, he entered into Lord Stirling's family, and has served two campaigns as a volunteer aid to his Lordship. He has, in every instance, maintained the reputation of a brave, active, and sensible officer. As we cannot introduce him into the Continental line, it were to be wished that the State could do something for him, to enable him to follow the bent of his military inclination, and render service to his country. If an event of this kind could take place, it would give me particular pleasure; as the esteem I have for him, and a regard to his merit, conspire to make me earnestly wish to see him provided for in some handsome way. I am &c GEO. WASHINGTON.

This is the letter to which Monroe refers in his letter to General Washington above quoted, as "the introduction you gave me some time since to this State," and which, he says, he found of "essential service" to him. It secured his election to the Assembly from King George County, and his subsequent appointment by that body as a member of the Privy Council.

hands. With every sentiment of respect & esteem w'ch y'r great & unwearied service to y'r country & your kind & friendly attention to me can fill my breast I have the honor to be y'r Excellency's most obedient & most humble servant, JA.S MONROE.

TO THOMAS JEFFERSON.

RICHMOND, Feby. 8, 1783.

DEAR SIR,—I fear this will not reach you, but risque it for 'tis probable you may be detain'd a few days, at Baltimore. I take ye liberty to enclose you a cypher of men & places w'.h will perhaps in some instances form the subject of a correspondence. I beg of you to accept my most sincere acknowledgm't.s for y'.r kind offer.[1] As yet I can not possibly determine how to act but shall consult M.r Short if peace does not shortly take place, we will most probably join you. I most sincerely wish you & y'.r family a safe & happy arrival to ye destin'd port, & am y'.r affec. friend & servant, JA.S MONROE.

TO RICHARD HENRY LEE.[2]

ANNAPOLIS, December 16.th 1783.

DEAR SIR,—I am particularly happy to hear by your brother, that you have almost recovered from the indisposition, with which you have been lately afflicted: an event I must consider fortunate to the State and

[1] Jefferson had invited Monroe to join him in France and become a member of his household there.

[2] From *Life and Correspondence of Richard Henry Lee.*

your family, for I flatter myself, when perfectly restored, you will not withdraw yourself from the public service. It must be hoped that those measures, which have hitherto, will not always prevail; as to establish in our public councils, a greater regard for public faith, and in private life, for morality, your exertions joined with those of some worthy men, must certainly be more successful.

I am called on a theatre to which I am a perfect stranger.[1] There are before us some questions of the utmost consequence that can arise in the councils of any nation: the peace establishment; the regulation of our commerce, and the arrangement of our foreign appointments; whether we are to have regular or standing troops to protect our frontiers, or leave them unguarded; whether we will expose ourselves to the inconveniences, which may perhaps be the loss of the country westward, from the impossibility of preventing the adventurers from settling where they please; the intrusion of the settlers on the European powers, who border on us, a cause of discontent and perhaps war, as with us a constant state of warfare with the savage tribes, to the ingrafting a principle in our constitution which may in its consequences, as it ever hath done with other powers, terminate in the loss of our liberty. How we are to counteract the narrow

[1] Monroe had been elected by the General Assembly of Virginia, on June 6, 1783, a delegate to the Fourth Congress under the Confederation, to serve one year from the first Monday in November following.

Congress met November 3d at New York, and on the next day, adjourned to meet at Annapolis on the 26th of the month. No quorum appeared there, however, until December 13th. On that day Monroe was in his seat. His colleagues were Thomas Jefferson, Samuel Hardy, John F. Mercer, and Arthur Lee.

and illiberal system of commercial policy in the European powers, and what connexion we are to have with them, are also questions of the first import. If your health will permit, I shall be particularly happy to have your opinion upon these several subjects. It is my desire to hear from you as frequently as possible, and upon these subjects before us, which I shall be happy to make known to you.

I am, with the utmost respect and esteem,

Your sincere friend and servant,

Jᴬˢ Monroe.

TO THOMAS JEFFERSON.

Annapolis, May 14, 1784.

My dear Sir,—I hope before this you have safely arriv'd in Phil'a. I very sensibly feel your absence not only in the solitary situation in w'h you have left me but upon many other accounts.[1] What direction the delegation may take even for the short space that we shall remⁿ here, upon the few important subjects that are before us, is to me altogether incertain. The same men still act on the same principles & upon points where no personal objects are in view on either side, accommodation on the part of those gent'ⁿ is, if possible, more difficult to be attain'd. As I have not been able to finish our cypher I can only give you an acc't. of one or two measures, by the next post I will send it & before your departure give you information of whatever hath or may happen. We have appointed

[1] On the 7th of May Jefferson had been appointed by Congress Minister Plenipotentiary to act with John Adams and Benjamin Franklin already appointed, "for the purpose of negotiating treaties of commerce." He proceeded at once to Boston (via Philadelphia) when he sailed for France July 5th.

Colo. Humphreys secretary to the embassy or commission. The report upon taking possession of the western posts hath been before Congress. Hand moved for its postponement to take up a plan of his own, more concise, but not very explicit; his plan is to dismiss the troops at West Point & elsewhere, & enlist others for this service which he supposes may be effected in a very few weeks & in time to serve the purpose of the Indian Com'rs I wish you to inform me what posts you think troops had better be station'd at. I recollect you had thought on this subject & made some amendm't in the plan propos'd by Gen'l Washington. I am rather an advocate for the dismission of these troops for a variety of reasons which will occur to you & if the levy of others can be effected in time for the western purposes think the difficulty you had in the winter will be remov'd. I have sent your trunks by the packet to Baltimore & instructed the master of the packet to deliver them himself. I have also forwarded y^r^ letter to Mr Curson. Do you recollect anything further here that I should attend to besides those you gave me in charge? Every thing relative to the negotiations are completed so that you will of course receive the instructions immediately. I think you left town before a particular clause had rec'd its negative. It was the only one which remain'd undecided on so that you will comprehend me without my particularizing it. Your letters by post I shall forward to you: the one from Mr. Hopkinson if it arrives I shall attend to & apply the contents as you desir'd me.

I am y^r^ 'affec. fri^d^ & servant, JA^s^ MONROE.

P.S. Partout[1] & myself agree very well only now & then we require the aid of an interpreter. I have had one or two comfortable solitary dinners upon little more than vegetables & coffee cream. He says "comme vous dinez Monsieur tout seul il est tres necessaire pour reduire la provision et pour accommoder la depense a cette changement."

TO THOMAS JEFFERSON.

ANNAPOLIS, May 20, 1784.

DEAR SIR,—I have rec[d] Mr. Hopkinson's letter enclosing from the office of finance a bill containing 506 $\frac{2}{3}$ dol[rs] which I will negotiate agreeably to your desire, pay y[e] Intendant the sum you owe him & transmit the balance. The committee, of which I am a member, appointed to view the country around Georgetown under the Princeton[2] engagement set out this morning upon that business. I think with you that it will be proper to effect this business before the adjournment & no time may better be spar'd than the present. For four or 5. days past the qualification of the Delegates from R. I.[3] hath been the only subject before us. The motion respecting them was from M[r]. Read. This brought forward the report

[1] Jefferson and Monroe had messed together at Annapolis and Partout was their caterer.

[2] Congress, while sitting at Princeton, had on October 30, 1783, appointed a committee "to repair to the lower falls of the Potomack to view the situation of the country in the vicinity of the same" and to report a proper district for the residence of Congress.

[3] Objection had been made to the right of Messrs. Ellery and Howell, the delegates from Rhode Island, to act as members of the Congress, upon the ground that the year, for which they had been appointed, had expired.

of the committee which was ag^nst them & conformable to the principles establish'd in the case of Delanson. Upon the question shall the resolution stand? 4. States voted in the affirmative, 2. in the negative & 3. were divided. Of course it was enter'd in the journals that it was lost. The question then was, are they under this vote delegates? On the side of those in the negative the arguments are,—if 7. states were on the floor represented generally by but two members & the question was, shall a delegation retain its seat, or any particular member, the time of service having actually expir'd, ye vote of one member only wo'd keep him in Congress. 2. that the question is not, shall they be turn'd out? it is not an ordinary legislative act, but a judicial one & the confederation the law & to be appli'd to the case in question, it is a question of right. Does it or not exist—if it does what number of States are necessary to confirm it. That in all judicial decisions the majority of at least the sitting members is necessary to establish any right—in most or indeed all, a majority of the commission. That here it is more essentially necessary, that the majority of the U. S. in Congress assembled are competent only to the inferior duties of gov^t: that 9. states are necessary to the most important acts: that a scrupulous attention to the object & principles of the confederation wo'd perhaps require that the number necessary to govern the States sho'^d concur in the opinion of the validity of their respective credentials, but that neither the policy of the confederation nor any principle of gov'ts will admit that the consent of

less than 7. States shall be necessary, that in this case there is not only a minority of the U. S. in Congress assembled in their favor but a minority of those present. On the other side, it was argued 1. that having their seats 7. States are necessary to turn them out, that the power of excluding delegations from their character & office sho^{d} not be committed to a less number: that if the question was shall a delegation be admitted under indisputable credentials from his State, the number present being as before stated, & only one member voted ag'nst it, it wo'd be negativ'd. that this wo^{d} be a dangerous engine in the hands of party men. that the resolution of the committee ag'nst them was negativ'd & of course they remain members. I submit to you the reasons on both sides as they occur to me at present but perhaps I do not recollect the whole, for being just ready to mount our horses I have not time to be so particular as I co^{d} wish. Give me y^{r} opinion upon this aff^{r} I have negotiated the aff^{r} of the bill, p^{d} the Intendant 7 £ 10 s & inclose you the balance except three doll'rs w'h he gave me in money & w^{h} I retain not being able to send it. I inclose you a cypher which I hope you will be able to read, but upon examining it I find it incomplete & must therefore leave it with Mr Clerici to be finish'd & sent by post. The gentlemen wait for me & have only time to add that I am y^{r} affec^{te} friend & serv^{t}

Ja^{s} Monroe.

TO THOMAS JEFFERSON.

ANNAPOLIS, [May] 25, 1784.

DEAR SIR,—I rec'd this moment yours of the 21st. My letter by the last post will inform you of the occasion w'h pointed that as the favorable moment for a trip to Georgetown & of our availing ourselves of it. Yesterday evening we return'd. Our report will be in favor of the Maryland side & of a position near the town.[1] Upon our return we found that business had been conducted as we expected. The aff'r of Rhode Isl'd had not been setled till Monday (yesterday) & that in a very extraordinary way. I inform'd you whence the motion for inquiry originated & I believe, of the warmth with w'h it was conducted. I never saw more indecent conduct in any Assembly before. The dispute was more pointed between Mercer & Howell. After exhausting each other, the earnest desire to proceed to business existing with the other part of Congress prevail'd & this consideration being forc'd to give way to that Mercer & Read had only the alternative of withdrawing or putting their protest upon the journals. Virginia & S. Carolina stand, I hear, for as yet I have seen nothing formally enter'd, in protest agnst. the continuance of these delegates or their right to vote, under their present authority. I am told this is in the name of the delegations on behalf of their respective States. What hath this business to do with Virginia or Virginia with it, more than any other state in the U. S.? & wherefore is she bro't so intemperately & actively on the field? To-day we resume (I

[1] The site finally determined upon, and on which the city of Washington now stands.

am inform'd) ye consideration of ye western posts. What will be the result is incertain. New York, I hear, will put restraint on every measure till she attains the object of her memorial or statem^t^ handed in before you left us. Other States will be perhaps for doing nothing & some persons who cannot perhaps attain what they wish may attempt to mar the whole. We have now only 8 days before the adjournment so that the prospect of effecting these & other objects before us is unfavourable. My last letter gave you the balance of what Mr. Jenefer inform'd me from his memory, for he had no memorandum ab't him, & the post admitted not of delay, w^h^ I p'd him. I understood the whole was for y^r^self & transmitted it to you in bank bills except ab't 7 or 8 dol^rs^ for w^h^ I co'd not procure a bill. By y^r^ letter I am inclin'd to suspect I have been mistaken & that I sho^d^ have given the balance to Mr. Hardy, but this or any other mistake you will please to rectify & give me the necessary information & let me do it. I shall go instantly upon the business of y^r^ other commands. Forw^d^, if not yet gone, y^r^ instructions &c., & will attempt giving you powers to negotiate with F.[1] if you have them not, but I suppos'd you had, for so I think it was reported & I do not recollect that it was negativ'd. It is certainly necessary something sho^d^ be done respecting the restraint on tob^o^[2] in France, to extricate it from the monopoly of the farmers gen^l^ contrary in my opinion to the spirit of the treaty, but I am not sufficiently inform'd on this subject to take it up & wish y^r^ advice. The cypher I find is imperfect, I have only us'd it for

[1] France. [2] Tobacco.

the present purpose. It appears to me only to want one to write by & in that case we may remedy the inconvenience. Otherwise I will make a new one & forw'd it by Mr Lucerne or some other gentleman of distinction. I shall write you constantly, as well before you quit the continent as after. I have the pleasure to inform you that I have information from Mr Jones that the facilities will eventually be of as great convenience to our State as any in the Union, & that their admission is consider'd as a great eas'ment to the State. Y'r fri'd & serv't.

JAs MONROE.

P.S. Be so kind as assure Mr Hopkinson that I consider'd the part of his letter you allude to was only intended for y'rself & that I have kept it as secret as his utmost delicacy wo.d require, assure him further that in y.r absence by any letters address'd to me he shall most fully command my services. I have wrote to the chevalr at B. to desire Mr Curson to forward me his acc.t which I shall pay immediately & also to inquire ab't the books. I still owe you. W'll you tell me to whom I shall make payment.

TO THOMAS JEFFERSON.

ANNAPOLIS, June 1, 1784.

DEAR SIR,—I have been favor'd with yours of the 25. by y.e last post with its enclosures & will pay due attention to the contents. Two points have been effected since my last; y.e putting y.e office of finance into commission & establishment of the committee of

the States & appointm't of the members. Each State nominated its own member, & Congress confirm'd the preference. The committee consist of Mr. Blanchard, Dana, Ellery, Sherman, DeWitt, Dick, Hand, Chase, Hardy, Spaight & Read; for the States not represented on the floor any member who produces credentials may take his seat. The members also may release each other at pleasure. These resolutions were introduc'd by Mercer & supported by Read: by w^{h} the appointment, if this rule continues (longer than the present Congress or rather committee) is taken out of the hands of Congress & rested in the delegation of each State & of course given to whomever ye chance of a popular vote, may place at the head of a delegation, for those who pay a delicate attention to the sense of the State must take that sense from such evidence as appears to them. The powers of the committee are confined so that no injury can be effected. Sherman & Dana will necessarily govern it. Read & Spaight will be together. Hardy will perhaps be of the same society & as the part they will act will perhaps be rather an intemperate one, they will have no weight themselves & throw the indifferent states into the other scale.[1] I

[1] The Committee of the States was appointed May 29, 1784. Its powers were fixed by the following resolution adopted on that day.

"Resolved, That the Committee of the States, which shall be appointed pursuant to the ninth of the Articles of Confederation and Perpetual Union, to sit in the recess of Congress, for transacting the business of the United States, shall possess all the powers which may be exercised by seven States in Congress assembled, except those of sending ambassadors, ministers, envoys, residents, consuls or agents, to foreign countries or courts—establishing rules for deciding what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States shall be divided or

shall sit out a day or two after the adjournment for Virg[a] & propose, if possible, to effect the purchase of the land from Markes & if necessary will go to Alber-

appropriated—establishing courts for receiving and determining finally appeals in cases of capture—constituting courts for deciding disputes between two or more States—fixing the standard of weights and measures for the United States—changing the rate of postage on the papers passing through the post offices established by Congress—of repealing or contravening any ordinance or act passed by Congress—or appointing civil or military offices, unless to supply the places of such within the United States as the Committee may suspend for malconduct, or to fill up vacancies which may hereafter happen, by death, resignation, or otherways, within the said States; provided such appointments shall not continue more than one month after the assembling of Congress in November next, unless confirmed by them.

"That no question, except for adjourning from day to day, shall be determined without the concurrence of nine States.

"That a chairman, to be chosen by the Committee, shall preside. That the officers of Congress, when required, shall attend on the said Committee.

"That the Committee shall keep a journal of their proceedings to be laid before Congress; and that in these journals, which shall be published monthly, and transmitted to the executives of the several states, shall be entered the yeas and nays of the members, when any one of them shall have desired it before the question be put.

"That if it shall happen that any of these United States shall not be represented in Congress at the time of electing the Committee of the States, or if no delegate shall be elected by Congress for any particular State, such State or States may be represented therein by any one of the delegates of such State or States, and the members of the delegation of any State may relieve each other, in such manner as may be agreed on by themselves, or directed by their State.

"In case any unexpected and very important business occurs, in which the Committee may think the happiness or peace of the United States is involved, and to which they are not competent, it shall be their duty to appoint a day for the meeting of Congress prior to that to which they stand adjourned, and to give notice of the same to the supreme executives of the several States, that the delegates may have notice to attend.

"That the Committee shall have power to receive communications from foreign ministers, and to lay them before the Congress when they shall convene, but shall transact no business with them, unless authorized thereto by particular acts of Congress."—*Journal of Congress*, May, 29, 1784.

The Committee held its first session June 4, 1784, when Mr. Hardy, of Virginia, was elected Chairman, and an adjournment was had—"for the benefit of the health of the members, and to give an opportunity for some respite after

marle.[1] I intend also to put in execution the plan I had in view of visiting the western country if no difficulties arise upon my arrival in Virg[a]. You will please direct y[r] letters for me to Fredericksburg thro' whomever you think proper here. I shall hurry M[r] Short on if he comes by Annapolis but suspect he hath pass'd by Baltimore before this. I shall write you by the next post after the adjournment of Congress & give you information of our ultimate proceedings; the western posts are still before us & will probably receive their final arrangm't tomorrow. The plan is (ye two points having pass'd by y[e] vote of 7 States, the whole being consider'd as one ordinance) to send 350 of the troops from W.[2] point immediately to take possession of the posts, & to raise 700 men to supply their places. I think it will pass. The collection of military stores, arrangment &c. will be put under the direction of Gen'l Knox. I am sincerely your friend & serv't. JA[s] MONROE.

P. S. The inclos'd proceedings of the Committee of our Assembly were forwarded to me for you to carry to Europe with you.

the long session and weighty business lately before Congress"—to June 26th. From that time it met almost daily until August 19th, when it adjourned for want of a quorum.—*Journal of the Committee of the States.*

[1] This land was in the vicinity of Monticello, and Jefferson was very anxious that Monroe should purchase it, and become his neighbor. About this time h wrote Madison: "Monroe is buying land almost adjoining me. Short will the same. What would I not give if you could fall into the circle. With su society, I could once more venture home, and lay myself up for the residue life, quitting all its contentions, which daily grow more and more insupportal

[2] West Point.

TO THOMAS JEFFERSON.

KING GEORGE, July 20, 1784.

DEAR SIR,—By Mr Short I have the pleasure to forward you a more complete cypher in which we will correspond in future. He will find you, I hope, safely arriv'd in Paris & recover'd from the fatigues of your voyage & situated with Miss Patsy [1] agreeably to your wish. In my letters from Annapolis I inform'd you of the latter proceedings of Congress & as I address'd them to Boston hope you rec'^d^ them. Mr Madison, whom I saw lately at Richmond, will give you the proceedings of the Assembly: three important objects have, I find, imploy'd their attention; the enlarging the powers of Congress, regulation of the commerce of the State & the recommendations of Congress under the treaty. Their resolutions in the first instance I enclos'd to you for Boston. In the 2^d^, they have establish'd a port on each river, to w^h^ they have restricted the vessels of foreign nations in the reception & unlading of their cargoes. They have defer'd the commencem't. of the operation of this law to the expiration of two years in the expectation that the craft necessary for the river carriage will be prepar'd by that time, so that from ye commencm^t^ it may effect no injury to the people; but this I think a visionary hope. Those who otherwise wo^d^ turn their attention to the subject, will think it too incertain an event to calculate on, & the operation of the law will find not a single vessel, prepar'd to supply the

[1] Mr. Jefferson's eldest daughter, Martha. She was then twelve years of age. In 1790 she married her cousin, Thomas Mann Randolph, who was subsequently a member of Congress and Governor of Virginia.

exigency it will require; from this circumstance, I fear a repeal will be attempted; I hope, however, it will fail & that this is only a step to a more wise & mature system of policy. If too many ports are admitted will the objects of the State be attain'd, or on the contrary will they not serve as subsidiary to Baltimore & the other towns on the continent who aim at our trade? Will it not be an exertion to promote their interest by collecting the produce of the State to particular ports, & thereby throw it more particularly into the vortex of Baltimore, since the operation of each town will be confin'd to the river on w^h^ it is plac'^d^? It appears to me unwise to attempt erecting more than one great town at a time, since they will fail altogether while the *exertion is beyond the means necessary* to effect it. You will inform me under the treaties which subsist what regulations we may make that will at least make the advantages arising from our intercourse with those nations reciprocal. If Sp^n^, for instance, takes off her duties or makes them lighter on any produce of these States, then the other powers with whom we are or may be connected, they refusing us such privileges, can we & is it consistent with the usage of nations to give her reciprocal advantages here, the treaties between us & each power being, as that with France, on the principle of the right of the "most favor'd nation." I make the enquiry more for information of the usage of nations than from any di' ficulty ab't the usual import of the words. Hath ther been any investigation at the instance of any natic that you can find, of the extent of the sense of th words & of the obligations enter'd into under

form? Is our tob^o restrain'd in its sale in the first instance to the farmers gen^l alone, & if this is the case is it not contrary to the spirit of the treaty? Sho^d not our ministers be instructed to attempt its removal?[1] You will be so kind as give me every information upon these subjects you think necessary, for perhaps my inquiries may not extend to every object upon w^h I sho'^d be inform'd. I beg of you also to turn my attention to those other great objects to which in y^r opinion it sho'^d be applied, for a variety of points may arise to you when you look back on our country, in w^h our policy may no doubt be much improv'd. The laws prohibiting the executions for recovery of Brit'^h debts are still in force. An address or some thing of that nature is made to Congress upon that subject, desiring their sense of the propriety of keeping them in form until satisfaction is made for the removal of the negroes from N. York. Of this, however, Mr Short will give you further information. The day after to-morrow I sit out upon the route thro the western country. I have chang'd the direction & shall commence for the westward upon the N^o river, by Albany &c. I shall pass through the lakes, visit the posts, & come down to the Ohio & thence home. This route will necessarily take me all the time during the recess of Congress. Of course I shall not be able to attend the committee of the States agreeably to engagement made between my colleagues, & to accommodate w^h generally, a resolution

[1] Jefferson acted upon this suggestion. See his letter of Aug. 15, 1785, to the Count de Vergennes, protesting against the monopoly of the Farmers General in tobacco.

pass'd authorizing such relief to each other. The first act of the committee was to adjourn to the 26. since w^h. I believe they have not met. M^r. Short will inform you of the result of Col^o. Harvie's negotiation for me with Marks for his land. My failure in this instance will not abate my desire to effect a settlement in that country, it will still form one of my capital objects & will put it in execution as soon as possible. I had hopes of receiving a copy of y^r. answer to the queries of Mr. Marbois but suspect you fail'd in obtaining y^r. desire in Phil^a. Will you effect it in Paris upon terms agreeable to y^r. wishes? I shall certainly be in Trenton on the 30th of October.[1] In the trip I shall take, I may perhaps acquire a better knowledge of the posts w^h. we sho^d. occupy, the cause of the delay of the evacuation of the Brit^h. troops, the temper of the Indians tow^d. us, as well as of the soil, waters & in gen^l. the natural view of the country. Captn. Tenny, whom we saw at Annapolis, accompanies me. I am sensible of the fatigue I shall undergo but am resolv'd to sustain it. I am with my best wishes for y^r. health y^r. affectionate friend & servant.

JA^s. MONROE.

TO THOMAS JEFFERSON.

NEW YORK, August 9th, 1784.

DEAR SIR,—I wrote you lately by Mr. Short from Richm^d. He intended sailing in a few days from Warwick so that by this time or at least before this reaches you, you will have rec^d it. I am so far or

[1] Congress had adjourned June 3d, to meet, at Trenton, on Oct. 30th lowing.

my way in performance of my trip thro' the Lakes, rivers, &c. You will observe by this that I have chang'd my route & commence for the Westw^d here up the N°. river, thence to the Lakes, thro' the Lakes to Detroit & thence to the Ohio—from the Ohio home. Upon the Ohio I purchase horses. Perhaps I may visit Montreal. Had I a month more to spare, I wo^d go to Boston, up the Kennebeck river, to Quebec & thence on. I will certainly see all that my time will admit of. It is possible I may lose my scalp from the temper of the Indians, but if either a little fighting or great deal of running will save it I shall escape safe. I sit out up the N°. river in very agreeable company, M^r. Vaughn & family are of the party. I am y^r. affect. fn^d., etc. JA^s. MONROE.

TO GOVERNOR BENJAMIN HARRISON.[1]

TRENTON, Oct. 30, 1784.

SIR,—I have the honor to inform your Excellency that I arrived here last night, and can with pleasure add we have the prospect of a representation of the states in a few days. As yet neither of my colleagues have joined me; but I understand Mr. Lee is in Phil^a, and of course expect him to-day. In a visit I lately made by the North river to the lakes, in the necessity I was under of returning thro' Canada to the States, I was informed of some of the measures adopted by the British Government in that province,

[1] Courteously supplied by Lyon G. Tyler, President of the College of William and Mary, who states in his "Letters and Times of the Tylers" that a letter similar to this was written by Mr. Monroe to Mr. Tyler, then Speaker of the House of Delegates.

which I conceived highly interesting to us; that the commanding officer had received orders to retain the possession of the posts which fell within our lines by the treaty, and which sho[d] have been evacuated sometime since, and that many of the vessels on the lakes, laid aside under the provisional treaty for a peace establishment were again put in commission. This information I had from authority so respectable as to gain my entire assent, which further added that this procedure was founded on the conduct of the States of New York and Virginia, which they accuse of having violated the treaty. From every information I could obtain I have reason to believe that the temper of that court is very unfriendly to us and that they require only the most flimsy pretext to create a rupture; their councils are, it is true, in a divided state, but, in the talents and superior popularity of Mr. Pitt, this may not long be the case. I have thought it my duty to give to y[r] Excellency this information and have the honor to be with great respect and esteem

Your most humble servant,

JA[s]. MONROE.

TO THOMAS JEFFERSON.

TRENTON, Nov. 1, 1784.

DEAR SIR,—Two days since I arriv'd here after performing a tour up the North river by fort Stanwix down the wood-creek, thro' y[e] Oneida Ontario & (by the Niagara falls) part of lake Erie, thence back by Niagara thro' y[e] Ontario by Coolton Island thro' the S[t] Laurence to Montreal & from Montreal over lake

Champlain by Albany to N. York again. You find I have taken a route different from the one I intended, as my object was to take in my view the practicability also of a communication from Lake Erie down the Potowmack. But from this I was dissuaded by an accident w^h^ happen'd to some of the party upon lake Erie, with whom I came from fort Stanwix to Niagara. I had separated from them by accident three days before the event. They landed near some Indian huts (a Mr. Teller from Schenactady with four men in a batteaux) & were fir'd on by those Indians, Mr. Teller & two men killed & a 4th wounded; the latter with the 5th made their escape. The indian chiefs highly reprehended the act & were, at the earnest instigation of the gentlemen of the Brit'h garrison, endeavoring to detect & bring the villains to justice. Upon advice of this disaster Colo. Depeister, commanding at Niagara, sent an Express to me just entering upon Lake Erie advising my return, with w^h^ I complied & took the above route to this place. My excursion hath been attended with great personal exposure & hardship & much greater expence than I had expected. It hath, however, I hope been advantageous to me in some respects. I have ascertain'd I believe with some accuracy the different degrees of difficulty from Michelemachinac down the Grand river to Montreal, thro' the Lakes to Montreal and by the North river. The preference is, at least so far, in favor of the North river. The first leisure time I have I will take the route of Fort Pitt to Lake Erie & form some estimate in that direction.

Here I find the country from Montreal much richer than I had expected although I am of opinion L'd Sheffield's expectations are visionary in his calculation that it will supply the Islands with flour & lumber. Still I think it has great resources in those articles, but the best timber is high up the river, w'h together with the difficulty of getting it down the rapids & thro' the gulph of the S't Lawrence to the West Indies must make it an expensive trade to them, more expensive I am told than that from the Baltic. If I were to estimate the present or the probable future value of Canada to the Brit'h dominion, consider'd in a commercial light and compare it with the expense necessarily incurr'd if they keep up a military establishment in supporting it, I sho[d] think Britain wo[d] act a politic part in relinquishing it and the not doing it satisfies me she either has or will have other objects. Under the bounds of the U. S., by the late treaty, the principal part of the fur trade must leave it & run in some channel within the U. S. The merchants established or connected in it, the batteaux men and other dependents will take the same course. This will increase the expense of their government in supplying their upper ports in Canada as the price of hands will be higher and the means scarcer. In addition to those difficulties which nature has thrown in her way, others will exist under their government to which ours will be a stranger at present. No merchant is allowed to build vessels on the lakes, but must, if he takes the course, avail himself of those of government and this exposes them to con-

stant and most oppressive impositions. Their peltries are subject to duties and preference passes from Lake Superior to Montreal. The duties may be taken off but the preference passes can not be prevented; while the restraints on their trade are high it will be our policy to increase them in every instance wherein they depend on us; while we give those within our bounds great indulgences we must prohibit under high penalties all commerce between the U. S. and Canada; prohibit their landing or storing their goods on our side under at least thirty per cent advalorem at the place where landed. Canada I consider as standing upon different ground with regard to us from any other part of the Dominions. A free intercourse between us and the people of Canada can, in my opinion, only be advantageous to them & will defeat any political arrangement we can adopt respecting them. By prohibiting them the participation of the advantages which we possess, we occasion them great difficulty. Their merchants might get their goods much cheaper up the North river than the S't Lawrence and until we permit them to navigate on our shore from ye commencement of the Ontario they are depriv'd of the possibility of navigating it except in vessels of considerable burden. If they take the North instead in batteaux they must go round the lake seventy miles above Niagara & down the other side before they reach it for the passage is impracticable there. I submit to you these observations that you may judge what right they sho^{d} have in forming a treaty of commerce. The English ministry will, I

am satisfied, readily agree it shall be so framed as to exclude the U. S. from a free intercourse with Canada. Their jealousy will tell them to beware how they admit it lest the sweets of those rights which we enjoy might invite them to us; but the people of Canada will be more sensible of our blessings by the restraints laid on them. They will feel their own misfortunes and envy the blessings to be attained under the protection of the federal arm. In the meantime the acquisition of Canada is not an object with us, we must make valuable what we have already acquired & at the same time take such measures as will weaken it as a British province.

As yet we have not a representation of the States but expect it in a few days. This will certainly be a very important and interesting session. In Canada I was informed that the commanding officer had received orders not to evacuate the posts and that many of the vessels laid aside under the provisional treaty had again been put in commission on the Lakes, a measure s'd to be founded upon the supposed violating of the treaty by New York and Virginia. The latter in not repealing the laws prohibiting the recovery of British debts & the former in confiscations. But if their conduct is unauthoriz'd is this the way to obtain redress? I trust that the conduct of Congress upon this occasion will be firm though temperate but indeed we are in a poor condition for war; we may lose much but can gain nothing. The minister of finance has arriv'd here to present his comm'n to Congress. Those lately appointed in his stead are

too diffident I am told of themselves to succeed him; two I hear have resign'd; the situation is difficult but the road for Congress to take appears to me a plain one; an arrangement superseding his office hath taken place. He must bid us farewell; if those already appointed will not serve, others must be appointed in their stead. Our Indian commissioners have quarreled with the State of New York: the State also held a treaty with the Indians which preceded ours: to this they took exception; the affair will, however, easily be accommodated. The delegations are generally the same; Williamson is here, but it is said Spaight will dispute his right to sit. Pinckney instead of Beresford; Georgia has a Houston and Gibons here, the former has been to Europe to leave behind him what little wit he had, and the latter I believe never had any, or very little; he is, however, a married man & I hear well intentioned. The court of Pennsylvania sentenc'd the man who made the attack on Mr. Marbois to pay ye fine of 200 dol^rs^ & to suffer two years imprisonment. With this he is dissatisfied. Will the court of France be so.[1] I will write you very fully so soon as we have a Congress & by every packet & private opportunity & beg of you to do the same. I have not heard from you since you left Phil'a; perhaps your letters to me are in Virg^a^ if you have wrote. I reach'd New York 10 days after Mr. Short left it. I wish'd to have seen him. I hope yourself & Miss Patsy are well. Where shall I address to you? I am with the greatest respect & esteem, Dear Sir, your friend & servant JA^s^ MONROE.

[1] Cypher to this point.

TO JAMES MADISON.

TRENTON, Novr 7, 1784.

DEAR SIR,—I inclose you a cypher which will put some cover on our correspondence. We have yet only 5. States, & not a man from the Eastward except Mr. Holton, there is nothing new without doors, w^h I have not communicated to the Governor, & of those within I must defer writing to you, until the next post; the present is certainly an important crisis in our affairs, but as I shall write you very fully by the next post shall only add that I am with great respect, etc.

JA^s MONROE.

TO JAMES MADISON.

TRENTON, Nov. 15, 1784.

DEAR SIR,—You rec^d I hope by the last post a small cypher from me. At fort Stanwix you were necessarily acquainted with the variance which had taken place between the Indian Commissioners of the U. States & those of New York as well as of the principles upon which they respectively acted & the extent to which they carried them. As I reach^d N. York about eight days after you had left it & the Ind. Comm^rs were then on the ground & have not since made a stat'ment of their final transactions there, I have nothing new to give you upon that head. The questions w^h appear to me to arise upon the subjects of variance are 1. Whether these Indians are to be considered as members of the State of N. York, or whether the living simply within the bounds of a State, in the

exclusion only of an European power, while they acknowledge no obedience to its laws but hold a country over which they do not extend, nor enjoy the protection nor any of the rights of citizenship within it, is a situation w^h^ will even in the most qualified sense, admit their being held as members of a State? 2. Whether on the other hand this is not a description of those whose management is committed by the confederation to the U. S. in Congress assembled? In either event the land held by these Indians having never been ceded either by N. York or Massachusetts belongs not to the U. States; the only point then in w^h^ N. York can be reprehensible is, for preceding, by a particular, the general Treaty. This must be attributed to a suspicion that there exists in Congress a design to injure her. The transaction will necessarily come before us, but will it not be most expedient in the present state of our affairs to form no decision there on? I know no advantages to be deriv'd from one. If the general treaty hath been obstructed the injury sustain'd in that instance is now without remedy. A decision either way, will neither restore the time we have lost nor remove the impressions w^h^ this variance has made with the Indians & in the Court of G. Britain respecting us. If the right of Congress hath been contraven'd shall we not derive greater injury by urging it to the reprehension of New York who holds herself aggriev'd in other respects than by suffering our sense of that delinquency to lay dormant? Our purchases must be made without her bounds & those Indians whose alliance we seek inhabit a country to which she hath no claim.

Mr Marbois is dissatisfied with the decision of the Court of Pennsylvania in a particular affair. His own conduct in the management of that business previous to the decision, obtain'd the entire approbation of the King of France, as he is assur'd in a letter from the Minister of Marine, and certainly he conducted it in as high a tone as the Minister, the most jealous of the honor of the King of France co^d^ have done. Since that period he hath not rec^d^ ye orders of his court & in the interval hath some difficulty how to act. If Congress go to Philad^a^ he says he will be precluded from a personal attendance or communication there. I have considered this matter more attentively since I saw you & think that in whatever character we hold the man we cannot surrender him to the Court of France even if Pennsylvania wo^d^ accede to whatever we desir'd. That all they have a right to expect is that he be punish'd agreeably to the laws of Pennsyl^a^ & that if they are not adequate, others be made for preventing the like in future, w^h^ might be effected by a recommendation from Congress. The variance w^h^ took place between the members of the Committee of the States wh^h^ terminated in their abrupt dissolution, by a secession on the part of some members, is also an affair which may come before us[1]; but had we not also better keep this affair out of sight & while we lament they could not in that instance be calm & tem-

[1] The Committee of States, appointed May 29th 1784, "to sit in the recess of Congress, for transacting the business of the United States," had adjourned August 19th for want of a quorum, after an altercation between the members, which resulted in the withdrawal of Messrs. Blanchard of New Hampshire, Dana of Massachusetts, and Dick of New Jersey, who left Annapolis, and returned to their respective States.

perate, prevail on them if possible to be so in future? But the more interesting object is the variance between us & G. Britain. Indeed the former derive their consequence principally from the weight they may have in forming her conduct with respect to us. If they are hostilely dispos'd these circumstances will tend to give them confidence. My letter to Govr Harrison gave you what had taken place in Canada. I am strongly impress'd with the hostile disposition of the Court towards us, not only what I saw, but the information of all the American gentlemen lately from G. B. confirm it, & particularly one of Maryland one of Pennsylv'a & Mr. Laurens who is now with us. The former two have lately return'd to the continent. We are certainly in no condition for war &, while we preserve the honor & dignity of the U. States must earnestly endeavor to prevent it. If they will comply with the conditions of the late Treaty, as we must on our part do, whatever it injoins, our situation is as happy as we co^d^ expect it. The sooner we are ascertain'd upon this point the better it will be for us, we must suppose they will comply with the Treaty & surrender the western Posts & it is therefore our business to make provision for taking possession of them in the Spring. The Minister whom we may order to that Court to obtain an answer upon this head & cultivate its good wishes toward us, will we trust inform us by Spring that the West'^n^ Posts will be given up & the troops whom we may raise for that purpose will of course be applied to the garrisoning of them. Many of the West'n posts I have seen & think 1200 the

smallest number we sho[d] think of. But yet we have no Congress nor is the prospect better than when I wrote you last. All my associates are here except Grayson. I beg of you to write me weekly & give me your opinion upon these & every other subject which you think worthy of attention. A motion will certainly be made as soon as we have a Congress for its removal hence. To w[h] shall we give the preference, N. York or Philad[a]? We know not whom we shall have for Presid[t] of Congress; the delegates of S. Carolina think of M[r] Laurens but if I may venture a conjecture from what I have observ'd, with respect to M[r] Laurens' intentions I sho[d] suppose his object was to attain the Appointm[t] to the Court of G. Britain. The rule heretofore adopted in the election of President will I think be deviated from. If this sho'd be the case it is not improbable Rich[d] H. Lee may be elected. I have heretofore address'd my letters to Mr. Jones to Richmond but fear from the accounts I have of his health he hath not left home. Is this the case? I am, etc.

Ja[s] Monroe.

TO JAMES MADISON.

Trenton, Dec. 6, 1784.

Dear Sir,—I inclose you a paper w'[h] will give you a state of the representation of the States, beside w'[h] little else hath taken place worthy y'[r] attention. M[r] Jay is here & will, I understand, accept the office of foreign Aff[rs] upon condition Congress will establish themselves at any one place. The conduct of Sp[n] re-

specting the Mississippi &c. requires the immediate attention of Congress. The aff^{r} is before a Committee. I think we shall leave this place & either remove to Phil^{a} or N. York but to w^{h} is incertain.

I am, etc.

Ja^{s} Monroe.

TO JAMES MADISON.

Trenton, Dec. 14, 1784.

Dear Sir,—I have rec^{d} y^{r} favor of the 27. of Nov. in answer to mine of ye 15th. My last gave you the state of the representations here. The business of importance is still before committees or if reported not yet acted on. It seems to be the gen^{l} sense of Congress to appoint a Minister to the C^{t} of London & to give him instructions upon many subjects & particularly those w^{h} arise in the conduct of both parties under the treaty, but whom they may appoint is incertain, indeed I fear that the difficulty of obtaining a vote for any person will obstruct this measure for a length of time. Franklin hath thro' Mr Laurens & the Marquis of Fayette solicited permission to return home; this will no doubt be assented to as soon as taken up. An appointment must therefore be made in his place to that c^{t} I think there will be little difficulty in obtaining it for Mr. Jefferson, for the opinion of all the members seems to concur in the propriety of it. The first question will be whether or not to add other Ministers to those in office & annex them to the c^{ts} of London & Madrid, or depend on those for the manag'ment of all our business in Europe.

Connecticut hath I hear authoriz'd Congress to carry into effect the impost with the assent of 12. States only.[1] She hath also laid a duty of 5 p^{r} cent^{m} upon all goods imported from a neighboring State. This affects R. Island very sensibly. The question must soon be decided whether this State will accede to this measure or the other States recede from it for it is s^{d} N. York & Georgia will join in it. Have you been able to carry the point in favor of the delivery of such citizens as may be guilty of the offences you describe, to the power, in whose territory & ag'nst whose subjects they are committed.[2] This is certainly in strict conformity to the laws of nations but I believe not the common practice, except between those with whom particular treaties stipulate it. With us it will be beneficial as it must serve not only politic but in the instance of the Indian (if the latter are comprehended in it) very humane purposes. I wish the same regu-

[1] Mr. Madison was at this time attending the Virginia legislature at Richmond. Replying to this letter, December 24th, he says:

"A proposition was made a few days ago for this State to empower Cong^{s} to carry into effect the imposts as soon as 12 States should make themselves parties to it. It was rejected."

[2] Madison, in the same letter, writes:

"The Act empowering Cong^{s} to surrender citizens of this State to the Sovereign demanding them for certain crimes committed within his jurisdiction has passed. Congress are to judge whether the crimes be such as according to the Law of Nations warrant such demand, as well as whether the fact be duly proven. Concurrent provision is made for punishing such offences by our own laws in case no such demand be made to or be not admitted by Cong^{s} and legal proof can be had. The latter law extends to offences agst the Indians. As these tribes do not observe the law of nations, it was supposed neither necessary nor proper to give up citizens to them. The Act is not suspended on the concurrence of any other State, being judged favorable to the interest of this tho' no other should follow the example, and a fit branch of the federal prerogative."

lation co'd take place throughout the Union but especially on the frontier next the Brit^h—but how are you to ascertain the fact or what evidence wo^d you require of it? Or do you mean it shall operate without the concurrence of the other States? I expect Mr. Jones hath left Richmond before this but if he hath not, be so kind as make my best respects to him as also to Mr Stewart & believe me, etc.

JA^s MONROE.

TO THOMAS JEFFERSON.

TRENTON, Decr 14, 1784.

DEAR SIR,—Upon my arrival here I wrote you & committed my letter to the care of the secretary of Congress who said he wo^d transmit it thro' Mr Morris. I hope you have rec^d it. It gives you a concise acc^t of my late route to the lakes &ce., as well as some observations w^h I thought worthy your attention in the formation of a commerc^l treaty with Great Britain, respecting Canada. It was late in Novr before we formed a Congress[1] but at present we have 9 States on the floor with a member from all the States except Maryl^d & in a few days we expect her delegation on. From N. H. we have Mr Foster ag^n. B.[2] hath given place to some other gent'^n whose name I do not recollect. From Massach^ts we have Mr.

[1] "Eight States being assembled, the United States in Congress assembled, proceeded to the election of a president, and the ballots being taken, the Honorable Richard Henry Lee was elected."—*Journal of Congress*, Tuesday, November 30, 1784.

[2] Blanchard. He was succeeded by Pierce Long, who did not present his credentials until January 11, 1785.

Gerry, Holten, Partridge, King, & Gorham is appointed but hath not taken his seat. Chancelor Livingston, Jay, Benson their Attorney Genl & a Mr Lansing from N. York; from R. I. H. & E.[1] ag^n A Mr Johnson hath taken ye place of Sherman & Col^o Cook of Wadsworth in Connecticut. Jersey hath the same members with Mr. Houston formerly in Congress. Pens^a hath chang'd her members & with others appointed Mr Reid,[2] their late President. S. Chase, Smallwood, Stevens & McHenry are I hear from Maryl^d This is a respectable Congress & I am happy to inform you they have hitherto acted with perfect good temper & propriety not only in the manner of conducting the business, but of a mind comprehensive of the interests of the Union as well as an inclination upon the most gen^l & liberal principles to promote it. I really promise great good to the Union from this Congress. Our affr^s with Spain & G. B. are before us. They are referr'd to committees & I flatter myself that the necessary measures will be effected respecting those two courts. I mean here, with those to whom they are committed in the manag'mt. With each will the subseq't success depend. You know how difficult it is to ascertain this latter point. It seems to be an opinion generally given into that a minister shall be appointed to the Court of Britain. That one shall also be appointed to take

[1] Howell and Ellery.

[2] Joseph Reed. He was chosen President of the Supreme Executive Council of Pennsylvania in December, 1778, and held that office for three years. In 1784 he went to England in the hope of restoring his health. Though elected, he never took his seat in this Congress. He died in 1785, a few months after his return to this country.

the place of Franklin; whom the former will be, is altogether incertain but I think it beyond a doubt you will be the latter. It is also probable that you may be appointed to negotiate that particular business with Spain but this is only probable. If Franklin hath left France it may be proper you sho[d] not leave the court in case of that appointment. The French gent[n] here are very desirous of it. Mon[r] La Fayette hath been rec[d] into very high marks of attention by Congress; they appointed a joint Committee to receive him & give him the thanks of Congress. Congress have also wrote a letter to the King in his favor. Propositions for the arrangement of commerce, to be handed to the States requiring that they invest Congress with the power of levying the duties upon imports & exports are before them. I think recommendations to that effect will pass. A distinction will be made between the revenue & the regulation; the former unless ceded by the State to go to the State. As yet we have heard nothing from you except in a letter from on b[d] ship to Mr. Hardy on the committee of the States. It will give us pleasure to hear from you as well for the information you will give us of our aff[rs] abroad and when we sho[d] so hear, as to be assur'd of your health & welfare. The Marquis of Fayette will know every thing w[h] I have not mention'd of the aff[rs] of the Union in every part w[h] will supersede the necessity of my detaining you longer for the present. Short hath I hope join'd you. I very sincerely hope you are all well & am with my affectionate wishes that you may remain so

Y[r] friend & servant, JA[s] MONROE.

TO JAMES MADISON.

TRENTON, Decr 18th, 1784.

DEAR SIR,—Yours of the 4th inst. I have rec^{d}. Congress are now closely engag'd in very important business. Reports upon our affairs with G. B., Spain & our foreign affr^{s} in general have been presented & alternately acted on. To adjust the points of variance between us & the former Court it seems to be the general opinion that a Minister sho^{d} be sent there; that it would tend to conciliate the disposition of either to the other, effect the settlement of those points & avert the evils w^{h}, if things remain long in their present state, threaten both parties. That it is more honorable to both that they sho^{d} be adjusted in one of our capitals & that we owe that respect to the elder party. We have had no official communications but those with w^{h} you are already possess'd on the subject. Doc. Franklin hath thro' Mr. Laurens & Fayette desir'd permission to return home which will of course be granted. The claim of Spain to the exclusive navigation of the Mississippi &^{c} had been presented to our view before the instructions from Virginia arriv'd, in a note from Marbois covering a letter from Rendon with the extract of a letter from don Galvez. Mr Marbois assures us of the pleasure with w^{h} the K. of France will see measures taken to consolidate & maintain a good understanding between U. S. & Spain altho' the letter & the extract were from people unknown to us *still* the manner in w^{h} they came, intitled them to our attention. I mean the contents. At the same time therefore that it was tho^{t}

necessary to make a polite return to the note it seem'd to be generally agreed that measures sho[d] be taken with the c[t] of Spain for the amicable settlement of those points; and that a Minister sho'd also be sent there. The question then arose how shall these several negotiations be carried on & by whom. The gent[n] now in office, or shall others be appointed? N. Hampshire[1] R. R. Livingston & all those who were averse to new appointments (the aff[rs] with Spain being first before us) were for evading the question whether new appointments sho[d] or not take place, & appointing M[r] Jefferson immediately to the Court of Spain in support of w[h] they urg'd the particular qualifications of M[r] Jefferson for that business; the object of the two former was readily perceiv'd. The two courts of G. B. & F. wo[d] then be open. The first is I believe contented with his present station, the salary of w[h] will I think be rais'd & some other matters so settled as to accommodate him, but the latter wo[d] willingly serve the U. S. at either of those c'[ts]. It was therefore in opposition to this urg'd that for the more permanent interests of the U. States if we were to be represented only at two Courts it had better be at those of F. & G. B. than any others; that the Minister station'd at each might make occasional trips elsewhere & return, that in the magnitude of the question & the urgency of it that of G. Britain was the first object before us. That the regular way was to take up the whole together; first give Franklin per-

[1] Part of this letter is in cypher. The cypher translated "N. Hampshire" here is "40." In a note at the bottom of the page Mr. Madison says "40 probably sh[d] be 43—towit M[r] Laurens."

mission to return & in respect to that Court supply his place. That then the question wo'd come regularly before us, shall Jefferson & Adams transact our other business with the other Courts or shall we appoint others; that those who were averse to other appointments wo^{d} derive advantage from bringing it on in this manner, for then each point wo^{d} stand fairly on its own ground & be determin'd by its expedience. After very long debate it was carried that a minister shall be appointed & sent to the Court of Spain instructed &^{ce} The decision of the house in the point upon which it turn'd was, that he sho^{d} be appointed from the Continent, but those in office are not precluded from the vote. They are however not in nomination. R. R. Livingston, Govr Johnson of Mary^{d} R. H. Lee & some others are. R. H. Lee earnestly advocated the appointment of Jefferson to the Court of Spain only in my opinion to open those of G. Britain & France to himself & friends among whom are R. R. Livingston & Arthur Lee. He reprehends highly the opposition the other Delegates made to it; talks of the superior urgency of the affairs of Spain to us &^{c} Fayette & Marbois assur'd me that Jefferson had been well rec'd in the Court of France & that it was their wish he sho^{d} succeed Franklin. R. H. Lee hath hitherto given all the opposition in his power to this appointment & will continue to do it until opposition will be vain w'h I think will be the case. Arthur Lee is in nomination for the treasury b^{d} by Mr. Gerry, Mr Mercer & by a delegate from Georgia. In a late ballot Osgood had 6. votes Mercer 5 votes & Arthur Lee

two, Virginia votes for Mercer & seem'd inclin'd to suffer A. Lee to retire from the publick service in the opinion it will be advantageous to the publick.[1] It is propos'd to recommend it to the States to invest Congress with the power to regulate the commercial intercourse of the States with other Powers, without w^h^ it it is thought impracticable to comply with our ingagments in treaty or derive any advantage from them as a nation. To regulate the duties upon imports & exports, by w^h^ if wise regulations are adopted, we may take some share in the carrying trade by giving priviledges to our own citizens in the exportation w^h^ may encourage the merchants of the U. S. to employ natives as navigators as well as the merch^ts^ of other countries to take in partnership those of the States. To enable us further to act in concert in the measures w^h^ may be found necessary to counteract the policy of the powers with whom we have not treaties of commerce propositions to this effect are before a committee. The *regulations* & *revenue* are separated from each other, the latter will go to the States unless conceded to the U. S. for particular purposes by each particular State. As a citizen & a lawyer I am pleas'd with the regulation taking place in the judicial department. I am y'rs, very sincerely

JA^s^ MONROE.

P.S. I heartily wish we had a better cypher, as it is dangerous to trust those subjects upon w^h^ I wish

[1] John Lewis Gervais, Samuel Osgood and Walter Livingston were elected. Mercer's nomination was withdrawn (see p. 61). Later, July 27, 1785, Arthur Lee was elected, having been previously nominated by William S. Johnson of Connecticut.

most confidentially to correspond with you thus to chance & the curiosity of vicious or idle people. In this place I cannot procure a scribe, can you in Richmond?

TO JAMES MADISON.

N. York, Feby. 1, 1785.

Dear Sir,—I have lately heard nothing from you nor indeed from Richmond. I sho[d] suspect it arose from the adjournment of the Assembly, if I did not presume, had that event taken place, I sh'd been instructed to whose care I might address my letters for you in Fredericksburg or Richmond. My letters to Mr. Jones have advis'd you of the principles upon w'h our delegation act'd in the questions respecting the places of temporary & permanent residence for Congress; more explicitly perhaps than our communications to the Executive have done, altho' indeed we have been sufficiently explicit to the Executive. The com'rs for the federal town are not yet elected, arising from the urgency of more important business. I am sorry I have it not in my power to inform you we had already taken measures with the Courts of Spain & Great Britain upon the subjects w[h] have arose between us. The reports respecting each, have been frequently acted on, without making any decisive arrangment. That upon a letter of Laurens desiring permission for Franklin to retire hath also been before us. It contain'd a provision that a successor be appointed in his room. A division was call'd for, upon w[h] an amendment to the same effect was mov'd & six

States agñst three were for it. Thus it is upon all questions of a similar nature. Some gentⁿ wish to commit all our affrˢ to be transacted at these several courts to the two gentⁿ now in office, while we hold that at each Court a minister is necessary. That at the Court of France we shoᵈ always be represented, & at that of the Netherlands untill we had pᵈ the publick debt or establish'd funds for it. That the nature of the business & the manner in wʰ it shoᵈ be conducted considering our situation, requires a particular minister at the Courts of Great Britain and Spain at their leasure & who might assume a tone suited to circumstances. That two ministers are incompetent to this business if they are to do it, at the respective Courts & that to attempt it elsewhere will certainly fail of success, since we have information to be depended on that the Courts of Great Britain and Spain dislike to treat with us elsewhere. Upon all these points we have six States & hope upon the arrival of Marylᵈ or Delaware, both of wʰ are expected daily, to have the 7ᵗʰ. The comⁿˢ of the treasury are elected, Gervais, Osgood & Walter Livingston are the men. Some importⁿ communications being recᵈ lately from our Ministers abroad, it was mov'd that they be referr'd to a committee to determine what part shoᵈ be communicated to the States. A committee was appointed & a report made. A few days afterwards we recᵈ a letter from Mʳ Jay containing the following paragraph "I have some reason to apprehend that I have come into the office of foreign affrˢ, with ideas of its duties & rights somewhat diffenᵗ from those wʰ seem to be

entertain'd by Congress; if that sho^d prove to be the case I shall certainly think it my duty, either to execute it on the plan most agreeable to them or retire from it with as much acquiescence & respect as I accepted it with confidence in their delicacy & gratitude for the honor they did me." This was also referr'd to a committee to whom Mr Jay gave (to be ingrafted in the report) in writing the following proposition. "And that all foreign letters & papers w^h may be laid before Congress sh^d *in the first instance* be *referr'd* to him." Whether it will be the sense of the committee to make it a matter of right in the minister of foreign affr^s to advise Congress in the first instance upon the various subjects of his department & preclude themselves from a previous consideration, or will consider the office in a different point of view, consulting when necessary & referring or declining to refer to him, at pleasure, any of the subjects before them, is yet to be determin'd.[1] I am, etc.

JA^s MONROE.

P.S. Mr Mercer was in the nomination for the treasury but we withdrew him.

[1] "On the report of a committee consisting of Mr Monroe, Mr Platt, Mr Read, Mr Hardy and Mr Spaight, to whom were referred sundry letters from the Secretary for foreign affairs.

"Resolved, That in pursuance of the resolutions of the 22^d Feby, 1782, all communications as well to as from the United States in Congress assembled, on the subject of foreign affairs be made through the secretary for the department of foreign affairs, and that all letters, memorials or other papers on the subject of foreign affairs for the United States in Congress assembled, be addressed to him."—*Journal of Congress*, Feby. 11, 1785.

TO JAMES MADISON.

N. YORK, March 6, 1785.

DEAR SIR,—The arrangement in our foreign affairs begins at length to assume some form. Upon whatever ground they were taken up for a considerable time, either with respect to France, Spⁿ or G. B. the same difficulties arose. If it was mov'd that Franklin be permitted agreeable to his request to return home it was firmly oppos'd; if that a minister be appointed to Great Britain it was mov'd that those interested to form commercl treaties be instructed &c. It was argued on the other hand that our affairs with these courts stood on their own ground respectively and that negotiations with each separately & at their respective capitals wod be more eligible & likely to produce success. It was at length mov'd by Livingston that a minister be appointed to represent the United States at the court of Great Britain and carried. Adams, R. R. Livingston & Rutledge were put in nomination. It had been previously, with the ill-founded expectation of facilitating this measure, mov'd, by Mr Pinckney "that the comfis to foreign ministers unless renew'd by Congress shod continue in force only for three years." This was negativ'd, but being agn renew'd by the mover & press'd upon Congress from other quarters was at length carried.[1]

[1] "Resolved, That no future commission of a minister, either generally or specially, to any foreign court, chargé des affaires or secretary to any foreign legation, shall continue in force for more than three years; the time from which it is to commence to be fixed in the commission; at the expiration of which period, unless re-appointed, such minister or secretary shall cease to exercise such office; provided always that such minister or secretary shall be considered as at all times subject to the recall of Congress within the term limited."—*Journal of Congress*, February 18, 1785.

Upon several ballots Adams had 5. votes, Livingston 4. & Rutledge 2., Jersey at length voted for Adams, having previously nominated & voted for Livingston, upon wh: Virgª & Marylᵈ join'd in favr of Adams & gave him his appointmt: Mr Smith[1] lately an aid to the general hath been since appointed secrʸ to the legation. A Mr Trumbull[2] of Connecticut was his only competitor. Had this affr come on upon the first meeting of Congress at Trenton the event must have been the same. 5. states, the 4. Eastern & Penª were decidedly in favr of Adams in preference to any other person, Jersey was at first dispos'd to commit our for: business to Adams & Jefferson only, and woᵈ therefore have voted Adams to the above court. He woᵈ of course have the majority in Congress & the expedience of the measure woᵈ have superseded any difficulties with respect to the man. I suppose Jefferson will shortly be appointed in the room of Franklin to the court of France. Carmichael writes that some person in the character of chargé des affrs will shortly be sent from Spⁿ instructed &c on the subject. So that the affrs with Spⁿ will sleep till we hear further. I have recᵈ letters from Mr Jefferson of the 10th of Novr & 11. of Decr last. In the former he considers war betwⁿ the Emperor & the Netherlands with their respective associates the Empress with the Emp: & France, Prussia & the Porte with the Nether: as unavoidable. He considers the intermediate negotiation as an act only of the Imperia'

[1] Colonel William Stephens Smith, son-in-law of John Adams, nominated McHenry of Maryland.

[2] John Trumbull.

Courts to enable them to commence the campaign on better conditions; in the last he says the genl opinion is there will be no war but that he sees no reason for it, except the indisposition of the Empress upon whose health the projects of the Emperor must depend. He believes that if it takes place Engld will keep herself out of the scrape for the following reasons, 1. because she can not borrow money to take part in it. 2. Ireland is likely to give her disturbance & 3. because her disputes with us are not settled by a full execution of the articles of the treaty and the hatred of her people towards us has arisen to such a height as to prepare their minds for a recommenc'ment of hostilities shod their govt find this desirable. "If the war takes place & the States have the direction of their commerce upon federal principles I shod suppose, provided we settle our affrs with Gr. Britain, it will be advantageous to us. Every diversion wh it creates to the vessels of other powers from the business of commerce must form an additional demand for ours and admit us gradually into the carrying trade." By his last letter I find that a correspondence had taken place between our ministers & the Duke of Dorset, the B. minister at Paris, upon the subject of a commercial treaty. His Grace makes a previous stipulation on the part of his court "that a minister instructed &c by Congress repair to London." They say they are jointly authoriz'd to treat, that they have no objection that it shall be in London, from wh I suspect they may be there at this time. The comn to Adams will perhaps find him

there, but this will not give him powers singly to form a commerc[l] treaty.

The States of Mass: & N. York having graciously agreed upon the members to constitute the court [1] enter'd also into a stipulation that the place of session sho[d] be determin'd by a majority of the States present in Congress. When brought before Congress, the delegation of Mass: propos'd W[ms]burg & that of N. Y[k] Wilmington. The former had 5. votes & the latter 4. Of course the decision agreeably to the covenant enter'd into by the two States was in favor of the former. N. York was dissatisfied with the decision. Mass: mov'd that the Presid[t] forward the letters to the gent[n] appointed, upon w[h] the displeasure of N. York was discover'd. M[r] Williamson mov'd "that the decision of Congress by 5. States under the agreem[t] of N. Y. & Mass: under the confederation w[h] requires 7. in all cases excepted was void." Whether the States of Mass: & N. Y. had independently of Congress the right of fixing the place & might chuse any intermediate place, w[h] sho[d] be obligatory on themselves & the Union, or whether Congress had the power of controul became the question. Whenever it came before them a decision of the main question was always evaded by those of order, so that it was never taken.

[1] To determine the territorial controversy between Massachusetts and New York. The agents of the two States had agreed on the following Commissioners to compose it: Robert Hanson Harrison and Thomas Johnson of Maryland; John Rutledge of South Carolina; George Wythe, William Grayson, and James Monroe of Virginia; George Read of Delaware; Isaac Smith and William Patterson of New Jersey. Vacancies in the court were to be filled by Congress, which was to appoint the place where the court should sit. Five Commissioners to form a quorum.

The two States at length agreed that whatever had been committed to the journals shod be eras'd wh was admitted. In this condition it remains. It is expected they will agree to some more northern position. I am. etc. JAs MONROE.

P. S. Since the appointment of Adams it was generally agreed that some person shod be sent to the Hague, but no one is yet thought of.

TO THOMAS JEFFERSON.

NEW YORK, April 12th, 1785.

DEAR SIR,—Since my last I have recd yours of the 11th of Novr & 10th of Decr The former by Col. Le Maire, from whom however I did not receive it altho' I saw him, nor untill after his arrival nearly a month & then I believe by post from Phila I have had the same difficulty with the cypher but from a different cause. The copy of that I sent by Mr Short I left in Virga when I sate out for the westwd & have not since been able to command it, but shall most probably by the next post, so that whether you send me one or not our embarrassment will in future be at an end. That you may read my first letter I send you the cypher by which it was wrote. Fully impress'd with the disadvantages which must always arise to the States from a free intercourse with Canada I propos'd an instruction founded on the principles which my letter contains, to the ministers authoriz'd to form the treaty with G. B. The committee have reported in favor of it, but the delicacy of our situation with that court,

upon *that* of the posts & other subjects, is a consideration wh. inclines me to decline for the present bringing it to the view of Congress, The restrictions on this intercourse can only be carried into effect by possession of the posts and the more disadvantageous to them their surrender will be, the longer they may delay it.

I enclose you the report of a committee in favor of a change of the first paragraph of the 9th. of the articles of confederation for the purpose of investing Congress with almost the entire regulation of the commerce of the Union, in exclusion of the particular States. I am inclin'd to think it will be best also to postpone this for the present. Its adoption must depend on the several Legislatures & to carry it with them the preferable way perhaps may be to let it stand as it now is. It hath been brought so far without a prejudice agñst it. If carried farther here prejudices will take place, at least I fear so, & those who oppose it here will in their [*illegible*]. The way then will be to present it to them in its present state wh. may be effected by obtaining the permission of Congress for such delegation to take copies for that purpose. If this shod. be its course I shall have time for your answer & opinion on it. A committee is appointed to revise & report what alterations if any are necessary in the instructions to the comrs. authoriz'd to form commercl. treaties. What will be the result I know not, but the object of the appointmt. was, to change the principle upon wh. those existing were form'd. To instruct them to make the best bargain they can with

each power, such an one as the advantages wh they respectively derive from a commercl intercourse with us, entitle us to expect. If the convenience & advantage of the trade of either of these powers with us is equal, the conditions upon wh it is conducted for commercl & other national purposes, shod be equal also. The object is to connect us with each power independently of other powers, & to extricate us from the complicated system with which their connections with each other is involv'd. A system which they will understand, have been long accustom'd to the exercise of, & to turn to their particular advantages by every possible means of fraud and chicane. I doubt much the advantage of forming treaties for the present with any of the powers with whom you are authoriz'd to treat (the piratical States excepted) for what advantages can we give here in consideration of advantages there, or rather in consideration that they remove some of the restraints wh now exist, which they do not at present possess, or possessing that we can deprive them of. The more I investigate this subject the more I am confirm'd in this opinion. But all these embarrassments in the restrictions laid upon us by other powers, will I am persuaded have a good effect. They will operate more powerfully than the utmost force of argument cod do for the strength'ning our govt

From Spain we expect a Mr Gardoqui in quality of chargé des affrs All our measures with that court have of course ceas'd untill his arrival wh is weekly expected. Whatever we have to transact with the

cᵗ of G. B. is committed to Mʳ Adams, the formation of a commercᵗ treaty only excepted. Upon his removal from the Hague it was resolv'd to appoint a minister in his room; Mʳ Rutledge & Mʳ R. H. Harrison, C. Justice of Marylᵈ are in nomination as is likewise Govʳ Livingston of Jersey; it is not known whether either will serve.[1] My first letter will advise you of our embarrassment respecting a particular affʳ upon which you wrote me as you left Philᵃ, an attention to which falls now within your province. It is unfortunate upon this accᵗ Your cypher woᵈ not expose it to you. You will please write me as soon as possible upon this subject. You will receive instructions respecting the piratical states of Barbary. I fear from the information you give me they will not obtain fully yᵉ objects which they have in view. From what I have been able to collect here a treaty commenc'd on our own ground independent of any European power, will be most successful, since I am told they disregard the most powerful among them as much as they do us, & in that instance we might plead ignorance of the presents or amount, which would be acceptable to them. It is agreed to raise 700. men for the purposes of guarding the publick stores & giving security to the frontier settlements of the States. At Annapolis Mʳ Gerry protested agñst the right of Congress to *require* men in time of peace; his conduct was approv'd by his State & the delegation instructed to oppose & protest upon all occasions agñst the exercise of the power. It is agreed that by

[1] On July 25, John Rutledge was appointed, but he declined to serve, Aug. 24.

requisition men cannot be rais'd upon a few states or less than the whole but under particular circumstances of some, & then under a particular modification. It was thought in this instance necessary to have them in the field, in a short time, to protect the surveyors of the land & as this consideration superseded the propriety of a requisit^{n} on the whole it was agreed to recommend it to the States, most contiguous, to raise them. The land office is not yet open'd. A report drawn principally by Col^{o} Grayson will be deliver'd in a few days. It deviates I believe essentially from the one at Annapolis, but in what points I cannot say as I have not compar'd them together. The object of this is to have the lands survey'd previous to the sale, & after the survey to have the lots drawn for in the right of the States & sold in each by the loan officer at publick vendue for specie or certificates. I shall transmit you the journals of Congress as far as they are printed. They will give you at least the resolutions w^{h} determine the erection of buildings at the falls of the Delaware & our intermediate residence here.[1]

[1] "Be it ordained by the United States in Congress assembled—that the resolutions of the 20th instant, respecting the buildings for the use of Congress, be carried into effect without delay; that for this purpose three commissioners be appointed with full power to lay out a district of not less than two nor exceeding three miles square, on the banks of either side of the Deleware, not more than eight miles above or below the lower falls thereof, for a federal town; that they be authorized to purchase the soil or such part of it as they may judge necessary, to be paid at proper instalments; to enter into contracts for erecting and completing in an elegant manner a federal house for the accommodation of Congress, and for the executive offices thereof; a house for the use of the president of Congress, and suitable buildings for the residence of the Secretary of foreign affairs, Secretary at war, Secretary of Congress, Secretary of the marine, and officers of the treasury; that the said commissioners be empowered to draw on the treasury of the United States for a sum not exceeding one hundred thousand

Our dependence for their erection at Georgetown had been on the Southern States & as soon as Congress conven'd we found they had given it up. All further opposition we therefore consider'd as useless. One hundred thousand dol^rs we appropriated to it. Between Phil^a & this place we were indifferent as a temporary residence. We consider'd our State as no otherwise interested than as it might respect the delegates attending in Congress; upon federal principles that this sho^d have the preference. It must have a good *appearance* for the federal gov^t to pay attention to the part, w^h hath suffer'd most, from the depredations of the war; add to this the province of Canada is in possession at present of the fur-trade. The first exertion of the States must be to draw it thence & afterwards it may take its direction thro' the Potowm^k or whatever channel is open'd to it—but the 100,000 dol^rs are upon no fund. Whether they are to be requir'd from the States or not will become the question. It wo^d be fortunate if a delay co^d take place. The conduct of our delegation at Trenton was founded upon an acquiescence with the voice of the majority of the Union. We acted together & voted unanimously upon every point respecting these measures. Grayson only was absent. Be the event of this town as it may

dollars for the purpose aforesaid; that in chusing a situation for the buildings, due regard be had to the accommodation of the States with lots for houses, for the use of their delegates respectively; that on the twenty fourth day of December instant, Congress stand adjourned to meet at the city of New York, on the eleventh day of January following, for the dispatch of public business, and that, the sessions of Congress be held at the place last mentioned, until the buildings aforesaid shall be ready for their reception."—*Journal of Congress*, Dec. 23, 1784.

I think the proportion wh. will fall to our State will be well dispos'd of if it *annexes* the Idea of stability to our councils & measures. I cod. wish no more movements untill we take our final position.

I send you this by Colo. Smith, Secry. to the legation for London. Mr. Trumbull only was his competitor. He was formerly an Aid de Camp to Genl. Washington. He is desirous of being known to you & as I hear from every person who knows him a fair & respectable character, I take the liberty to present these circumstances in his favor to your knowledge.

Be assur'd I shall pay particular attention to that circumstance which is more personally interesting to yr. self mention'd in your first letter.[1] What can or will be done is incertain but satisfied of the justice of the measure, I shall with the utmost pleasure seek the attainment of it in a manner wh. will be most delicate & honorable to you. Indeed I think all our Ministers shod. have 5. or 600. £ stirg. more annually. I thank you for subscribing for me for the Encyclopedia. I have not at present the money but will send it as soon as possible. I sincerely wish it were in my power to join you this summer but it is impossible. The next I have it in contemplation & shall then be under no necessity to hurry myself so quickly back, & I cod. wish to remn. in Europe, if I ever visit it, at least 12. months. Col. Smith hath my instructions not to send this by post but some safe hand provided he doth not deliver it himself. Whether Congress will or not adjourn during the summer is incertain. I think they

[1] In reference to an allowance for Jefferson's outfit as Minister, which he wrote Monroe, had cost him "near a thousand guineas."

sho^d not, but the fact is our application to business hath been so close during the winter that we wish a relaxation. I think Congress sho^d sit untill our aff^rs with every for: power were finally & most amicably settl'd; and untill the commerce of the Union was properly regulated. The confederacy might then stand secure & not be exposed to injury or danger. Mr Butler, Walcot & A. Lee were on the Indian treaty at fort Stanwix; the State of N. York also held a treaty; they quarrell'd with the com^rs of N. York & disgusted the State. This is attributed to one of those gent^n only. Mr Mercer hath been absent since we left Trenton & hath married Miss Sprigg. Mr Read hath been less active than at Annapolis—he is s^d to be engag'd to K. Vanhorne of this place, he left this for S^o Carolina 2. months since it is s^d to prepare matters for this event —A Mr Carbonneau from the Kaskaskias petition'd Congress to take the people under their protection; a committee hath reported w^h is so far adopted that a com^r be appointed to repair thither,—instructed &^c Mr A. Lee is in nomination. The three com^rs of the treasury elected at Annapolis declin'd serving, in consequence of w^h Gervais, Osgood & a Walter Livingston were elected. Gervais hath declin'd & Mr A. Lee who hath upon every occasion been a candidate is agn. in nomination. Mercer & himself were in nomination at Trenton & we gave the former the preference. The fact is we can get none better than Mr A. L. & shall upon this occasion vote for him.

Your letters still contain doubts of the event of the interfering claims between the Emperor & the Nether-

lands. Mr V. Berckel hath presented a full & able statement of those of the U. Neth : & of the progress of either party to the commenc'ment of the winter in support of their pretensions. A war between them cannot be injurious to us ; provided our merchts have enterprise as we stand on neutral ground, they may turn it to their & the genl advantage. Believe me, etc.

Jas Monroe.

P.S. The alteration wh this report proposes in the whole system of our govt will be great. It is in fact a radical change of it. I beg of you to write your sentiments fully on it. If it is carried it can only be by thorough investigation and a conviction carried to the minds of every citizen that it is right. The slower it moves on therefore in my opinion the better.

TO JAMES MADISON.

New York, May, 1785.

Dear Sir,—Your favor of ye 12th of April accompanied with the cypher I receiv'd yesterday. The appointment of Mr Adams to the Ct of G. B. was soon afterwards succeeded by that of Mr Jefferson to that of France. Their com'ns have been some time since forwarded & before this they are no doubt station'd at their respective courts. The removal of the former gave uneasiness to Mr Van Berckel but as it was immediately resolved to appoint a successor, it hath probably abated. Govr Livingston, Rutledge, & R. H. Harrison, C. J. of Maryld are in nomination. 170. 10. is still possess'd of the 301. 541. 430. 530. the

221. 220. 40. 430. 323. 368. 650. 40. 440. 56. 348. 330. 389. 581. 360. 301. 430. 40. 383. 40. 220. 430. 589. 40. 497. 20. 497. 400. 40. + 579. 617. 248. 92. 230. 440. 94. 70. 430. 577. 175. 331. 230. 500. 430. our affairs with 412. 200. 430. 581. 430. 360. 444. 187. 509. 432. 40. 12. 276. 497. 350. 573. 230. 440. 193. 54. 325. 166. 40. 200. 430. 141. 360. 99. 400. 187. The aff^{r} of 221 329. 35. 219. hath not been acted on; for particular reasons it hath hitherto been deferr'd. A recommendation hath been made to the states of Connecticut, N. Y., Jersey & Pen^{a} to raise 700 men for the protection of the frontier settlements. It was question^{d} whether it were not better by requisition & upon ye Union, since it might be ye commenc'ment of an establishm^{t} w^{h} might last for ages, & if ye right of requisition existed, the effecting by other means might tend to weaken & ultimately destroy it. The delegation of Mass: at Annapolis protested agñst this right & their state approv'd their conduct. But as the right of requisition existed only when exerted on the union & it seem'd generally preferr'd to raise them from 3. or 4. of the States most conveniently situated, it was ultimately agreed to adopt ye mode of recommendation.[1] An ordinance regulating the mode of survey & sale of ye lands ceded by Virg^{a} hath lately engag'd the attention of Congress—it hath not yet

[1] It was determined that a requisition for 700 men should be made on the following States "as most conveniently situated."

Connecticut	165
New York	165
New Jersey	110
Pennsylvania	260

Journal of Congress. April 1st, 7th, and 12th, 1785.

pass'd, but as all the points of variance seem at length accommodated, it will perhaps in the course of the succeeding week. The original report admitted of the sale only of tracts containing 30.000 acres, call'd townships; this was adher'd to with great obstinacy by the E. men & as firmly oppos'd by the Southern. At length however the Eastern party gave up the point at least so far as to meet on middle ground. As it now stands it is to be survey'd in townships containing ab^{t} 26.000 acres each, each township mark'd on ye plat into lots of one mile square, and ½ ye country sold only in townships & ye other in lots. 13. surveyors are to be appointed for the purpose to act under the controul of the Geographer, beginning with the first range of townships upon the Ohio & running North to the lakes, from the termination of the line which forms the southern boundary of the State of Pen^{a}, & so on westw^{d} with each range. As soon as five ranges shall be survey'd the return will be made to the B^{d} of Treasury, who are instructed to draw for them in the name of each State in ye proportion of the requisition on each, & transmit its portion to the loan officer in each, for sale at publick vendue, provided it is, *nor any part*, sold for less than one dol^{r} specie or certificates ye Acre. Thus stands the ordinance at present. Some time since a treaty was ordered to be held with ye Indians in the Southern department, to w^{h} comm^{n} Mr Hawkins of N^{o} Carolina, Joseph Martin of Virg^{a} & some others[1] were appointed. A treaty is also to be held with the Indians westward at port St Vincents

[1] Daniel Carroll of Md., William Perry of Del., and Andrew Pickens of S. Carolina. Carroll declined.

or somewhere on the Wabash or Mississippi for the purpose of extinguishing the claims to soil of the tribes who inhabit in that direction: the late comrs are continued in the appointment. The interest on the loans in Holland for ye last year we understand is paid but not on those of France by ye completion of a loan order'd to be effected before ye peace. No new loan is order'd nor will there be as I conceive. A requisition is before Congress for money for the payment of the interest on the domestic debt to the 31. of Decr 1784 & on ye foreign to ye 31. of 85. amounting to 3.000,000 of dolrs, inclusive of the current expenses of Government; the monies to be applied to the payment of ye interest on ye foreign debts & the expences of govr amounting to abt 1,000,000 of dolrs to be recd in specie only, & the application to ye interest on ye domestic debt in certificates under the modification of the late requisition being abt 2 thirds. I am strongly inclin'd to believe the western lands will absorb all ye domestic debt Eastwd; the gentn from that quarter think so. I am also fully persuaded that when ye accts of Virga & No Carolina shall be liquidated ye amount will be greater than is expected here. The delay in this business from the negligence of Mr L. Wood, prevents ye operation of these requisitions having relation to us, & when these accts shall be liquidated most probably ours will comprehend ye greater part of ye domestic debt. No doubt we shall be paid but we had better go on *pari passu* with our neighbours. To expedite ye business we lately obtain'd ye addition of a 2d Comr to the state for ye purpose. They are each to act in a district. We have had re-

turns from but few of the States changing ye 8th article of ye confederation; several have already adopted it.[1] The requisition is on ye principle, in that respect, of ye late one. A report some time since pass'd Congress for appointing a Committee to wait on the legislatures of R. I., New Yk. & Georgia to advise ye immediate passage of the impost, but hath never been taken up. R. I. hath adopted it, with a separate credit for sums beyond her quota, & the appointment of her own officers: N. York hath had it before her legislature this winter & negativ'd it. I believe a bill hath been publish'd for inspection of ye people in Massachusetts w^h^ had ye objects you mention in view but that it hath not pass'd as yet into a law. Of this however in my next I will inform you. Y^r^ friend, etc.

JA^s^ MONROE.

TO JOHN JAY.

June 2, 1785.

DEAR SIR,—The enclosed Letter will inform you that one, and perhaps more of our Citizens are still held in Captivity in different quarters of the Globe by the Commandants of Vessels and others without

[1] Congress, on the 18th of April, 1783, had recommended to the States that the 8th Article of the Confederation should be amended so as to provide:

"That all charges of war and all other expences that have been or shall be incurred for the common defence or general welfare, and allowed by the United States in Congress assembled, except so far as shall be otherwise provided for, shall be defrayed out of a common treasury, which shall be supplied by the several states in proportion to the whole number of white and other free citizens and inhabitants, of every age, sex and condition, including those bound to servitude for a term of years, and three fifths of all other persons not comprehended in the foregoing description, except Indians, not paying taxes, in each State: which number shall be triennially taken, and transmitted to the United States in Congress assembled, in such mode as they shall direct and appoint"

the authority of the King or Ministers of Great Britain. Will it be necessary to give an instruction to the minister of the United States at London upon this Head similar to the one enclosed, or may it not be effected without any Act of Congress by your communication only? If the former should be your opinion had it better originate with Congress than yourself? I should suppose that you might effect it and induce the application of Mr. Adams under the Treaty without any act of Congress. I submit it, however, to you and should be glad of your opinion as soon as convenient.

I am very respectfully &c.,

Jᴬˢ Monroe.

TO THOMAS JEFFERSON.

New York, June 16, 1785.

Dear Sir,—By Colº Smith Secrʸ to the London Legation I wrote you in April last very fully upon our transactions previous to that date. I also inclos'd you the journals that were then printed with the copy of a report[1] upon the first paragraph of the 9th of the

[1] This report, partly in Monroe's handwriting, is in the volume, *Reports of Committees for Increasing the Powers of Congress by Recommendations to the States*, p. 125, in the Department of State. It is endorsed: "Report—Mʳ Monroe, Mʳ Spaight, Mʳ Houston, Mʳ Johnson, Mʳ King—to grant Congress power of Regulating trade. Ent'd. Read. March 28, 1785." Tuesday April 6. assigned.

It is as follows:

The Committee, to whom was referred the motion of Mʳ Monroe, submit the following report:

"That the first paragraph of the ninth of the Articles of Confederation be altered so as to read thus, viz.

"'The United States in Congress assembled, shall have the sole and exclusive right and power of determining on peace and war, except in the cases men-

Articles of Confederation proposing a change in it and the absolute investment of the U. S. with the

tioned in the sixth article; of sending and receiving ambassadors, entering into treaties and alliances; of regulating the trade of the States, as well with foreign nations, as with each other, and of laying such imposts and duties upon imports and exports, as may be necessary for the purpose; provided, that the citizens of the States shall in no instance be subjected to any higher imposts and duties, than those imposed on the subjects of foreign powers; provided also, that the legislative power of the several States shall not be restrained from prohibiting the importation or exportation of any species of goods or commodities whatsoever; provided also, that all such duties as may be imposed, shall be collected under the authority and accrue to the use of the State, in which the same shall be payable; and provided lastly, that every act of Congress for the above purpose, shall have the assent of nine States in Congress assembled; of establishing rules for deciding in all cases, what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States shall be divided or appropriated; of granting letters of marque and reprisal in time of peace, appointing courts for the trial of piracies and felonies committed on the high seas, and establishing courts for receiving and determining finally appeals in all cases of captures; provided that no member of Congress shall be appointed judge of any of the said courts.'

"That the following letter be addressed to the legislatures of the several States, showing the principles on which the above alteration is proposed.

"The United States having formed treaties of commerce with the Most Christian King, the King of Sweden, and the States General of the United Netherlands, and having appointed ministers with full authority to enter into treaties with other powers, upon such principles of reciprocity, as may promote their peace, harmony and respective interests, it becomes necessary that such internal arrangements should be made, as may strictly comply with the faith of these treaties, and ensure success to their future negotiations. But in the pursuit of the means necessary for the attainment of those ends, considerable difficulties arise. If the legislature of each State adopts its own measures, many and very eminent disadvantages must, in their opinion, necessarily result therefrom. They apprehend it will be difficult for thirteen different legislatures, acting separately and distinctly, to agree in the same interpretation of a treaty, to take the same measures for carrying it into effect, and to conduct their several operations upon such principles as to satisfy those powers, and at the same time preserve the harmony and interests of the Union; or to concur in those measures, which may be necessary to counteract the policy of those powers, with whom they shall not be able to form commercial treaties, and who avoid it merely from an opinion of their imbecility and indecision. And if the several States levy different duties on their particular produce, exported to the ports of these powers, or upon the produce and manufactures of those

controul of commerce. I now enclose you a copy of the journals as well those sent by Col° Smith as those

powers imported into each State, either in vessels navigated by and belonging to the citizens of these States, or the subjects of those powers, it will, they apprehend, induce on their part similar discriminations in the duties upon the commercial intercourse with each State, and thereby defeat the objects of these treaties, and promote the designs of those, who wish to profit by their embarrassment. Unless the United States in Congress assembled are authorized to make those arrangements, which become necessary under their treaties, and are enabled to carry them into effect, they cannot complain of a violation of them on the part of other powers. And unless they act in concert, in the system of policy, which may be necessary to frustrate the designs of those powers, who lay injurious restraints on their trade, they must necessarily become the victims of their own indiscretion.

"The common principle, upon which a friendly commercial intercourse is conducted between independent nations, is that of reciprocal advantage; and if this is not obtained, it becomes the duty of the losing party to make such further regulations, consistently with the faith of treaties, as will remedy the evil, and secure its interests. If then the commercial regulations of any foreign power contravene the interests of any particular State, if they refuse admittance to its produce into its ports, upon the same terms that the State admits its manufactures here, what course will it take to remedy the evil? If it makes similar regulations to counteract those of that power, by reciprocating the disadvantages which it feels, by impost or otherwise, will it produce the desired effect? What operation will it have upon the neighbouring States? Will they enter into similar regulations, and make it a common cause? On the contrary, will they not in pursuit of the same local policy, avail themselves of this circumstance to turn it to their particular advantage? Thus, then, we behold the several States taking separate measures in pursuit of their particular interests, in opposition to the regulations of foreign powers, and separately aiding those powers to defeat the regulations of each other; for unless the States act together, there is no plan of policy into which they can separately enter, which they will not be separately interested to defeat, and of course all their measures must prove vain and abortive.

"The policy of each nation in its commercial intercourse with other powers is to obtain, if possible, the principal share of the carriage of the materials of either party, and this can only be effected, by laying higher duties upon imports and exports in foreign vessels, navigated by the subjects of foreign powers, than in those which belong to, and are navigated by those of its own dominions. This principle prevails in a greater or less degree in the regulations of the oldest and wisest commercial nations with respect to each other, and will of course be extended to these States. Unless therefore they possess a reciprocal power, its operation must produce the most mischievous effects. Unable to counteract the

since printed, likewise an ordinance for surveying and disposing of the lands beyond the Ohio. Unfortu-

restrictions of these powers by similar restrictions here, or to support the interests of their citizens by discriminations in their favor, their system will prevail. Possessing no advantages in the ports of his own country, and subjected to much higher duties and restrictions in those of other powers, it will necessarily become the interest of the American merchant to ship his produce in foreign bottoms; of course their prospects of national consequence must decline, their merchants become only the agents and retailers of those of foreign powers, their extensive forests be hewn down and laid waste to add to their strength and national resources, and the American flag be rarely seen upon the face of the seas.

"But if they act as a nation, the prospect is more favorable to them. The particular interests of every State will then be brought forward, and receive a federal support. Happily for them, no measures can be taken to promote the interests of either, which will not equally promote that of the whole. If their commerce is laid under injurious restrictions in foreign ports, by going hand in hand in confidence together, by wise and equitable regulations, they will the more easily sustain the inconvenience or remedy the evil. If they wish to cement the union by the strongest ties of interest and affection, if they wish to promote its strength and grandeur founded upon that of each individual State, every consideration of local, as well as of federal policy, urges them to adopt the following recommendation:

"The situation of the commercial affairs of the Union, requires that the several legislatures should come to the earliest decision on the subject, which they now submit to their consideration. They have weighed it with that profound attention, which is due to so important an object, and are fully convinced of its expedience. A further delay must be productive of inconvenience. The interests which will rest in every part of the Union, must soon take root and have their influence. The produce raised upon the banks of these great rivers and lakes, which have their source high up in the interior parts of the continent, will empty itself into the Atlantic in different directions, and of course, as the States growing up at the westward attain maturity and get admission into the confederacy, will their government become more complicated. Whether this will be the source of strength and wealth to the Union, must therefore in a great degree depend upon the measures which may be now adopted.

"A temporary power would not in their opinion enable the United States to establish the interests, nor attain the salutary object, which they propose; the expectation, that it will revert to the States and remain with them for the future, would lessen its weight with foreign powers; and while the interests of each State and of the federal government continue to be the same, the same evils will always require the same correction, and of course the necessary powers should always be lodged in the same hands. They have therefore thought proper to propose an efficient and perpetual remedy."

nately I have not been able to command my cypher from Virg[a]. so that y[r] communications in the last & preceding letters, have been hid from my view. I left it with M[r] Jones who hath plac'd it among his papers but where he knows not. He promises to search ag[n] on his return home which will be shortly. I hope to receive the one by young M[r] Adams w[h]. will terminate the difficulty. The report upon the 9th article hath not been taken up. The importance of the subject & the deep and radical change it will create in the bond of the Union together with the conviction that something must be done, seems to create an aversion or rather a fear of acting on it. If the report sho[d] ultimately be adopted it will certainly form the most permanent and powerful principle in the confederation. At present the alliance is little more than an offensive and defensive one, and if the right to raise troops at pleasure is denied, merely a defensive one. The political economy of each State is entirely within its own direction and to carry into effect its regulations with other powers to attain any substantial ends to the State, they must apply as well to the States of the Union as other powers, and such a course as this will produce very mischievous effects. On the other hand the effect of this report w[d] be to put the commercial economy of every state entirely under the hands of the Union, the measure necessary to obtain the carrying trade, to encourage domestic by a tax on foreign industry, or any other ends which in the changes of things become necessary, will depend entirely on the Union. In short you will perceive that

this will give the union an authority upon the States respectively which will last with it & hold it together in its present form longer than any principle it now contains will effect. I think the expedience in a great degree of the measure turns on one point (especially to the Southern States) whether the obtainm^{t} of the carrying trade and the extention of our National resources is an object. And this depends entirely upon the prospect of our connection with other powers; if like the empire of China we were separated and perfectly independent of them it might perhaps be unnecessary: but even in the event a question arises w^{h} may be of consequence, "whether the giving our own citizens a show in the carrying trade will not otherwise be advantageous to them than as it obtains the particular object w^{h} the regulations necessary to effect it have in view; whether it will not in effect increase the value of land, the number of inhabitants, the proportion of circulating medium, and be the foundation upon which all those regulations which are necessary to turn what is call'd 'the balance of trade' in our favor, must be form'd." A preference to our own citizens is the foundation of the carrying trade and upon it I suspect will depend all these consequences. Yet an opinion seems to be entertain'd by the late commerc^{l} writers and particularly a Mr Smith on the wealth of nations that the doctrine of the balance of trade is a chimera in pursuit of w^{h} G. B. hath expos'd herself to great injury. If it sho^{d} be found that the carrying trade was only useful as it added to the national strength & it of no great consequence I

sho^d^ suspect that the apprehensions already entertain'd and which will no doubt form great embarrassment to the passage of this or any such measure, sho^d^ have great weight—" that the pursuit of this object will put it in the power of those States more immediately interested in it, to carry the regulations further than the attainment of it may make necessary, so as to give them advantages that will be almost exclusive & operate essentially to our prejudice: so as to lessen the price of our produce, discourage its cultivation & throw the monopoly in the purchase principally in their favor." Whether this under the report will probably be the case or possibly is doubtful: the regulation of the fishery is as much under our controul, even without the bounds of the State, as the tob^o^ of Virg^a^, and all the states have produce, so that I am inclin'd to hope that the productions of the South, though disproportionate to that of the East wo^d^ not induce, more especially as the revenue accrues to the State, and not the Union, any unequal restrictions. The subject is of great magnitude and I very earnestly wish to hear from you on it before it obtains its fate and this I am persuaded may be the case especially if the letter by Col^o^ Smith obtained a ready conveyance. I informed you in my letter by Mr Smith that a Committee was appointed to revise the instructions subsisting to our Commiss^rs^ authoriz'd to form commer^l^ treaties and report what alterations if any were necessary. This Committee hath reported and repeal'd the two first articles. I think it will be adopted. As I have no cypher I cannot risque anything upon this head

further than to observe than the letter I allude to will serve to give you some idea of the alteration. It is prefac'd with reasoning upon the propriety of the alteration, upon which it is form'd and of course if the reasoning is illy founded the superstructure falls to the ground. I hope the whole will either be adopted or negativ'd, for it will, if adopted, enable our ministers to investigate the truth of the positions and represent them to us, which their situation enables them to effect. There seems in Congress an earnest disposition to wind up our affairs as they respect foreign nations, exclude their interests totally from our Councils, and preserving our faith with the utmost punctuality with those to whom it is plighted, make such regulations as will effectually promote our interests. Information and a knowledge in what it consists are the only points in which they are defective. I have never seen a body of men collected in which there was less party, for there is not the shadow of it here; I think there will be no adjournment and I sincerely wish there may not be for I fear it will not be easy to collect men from the States with more upright intentions. That you may have in view whatever is in agitation respecting the western country, to judge of the system if there is one I enclose you the copy of a report now before Congress w^h^ comprehends whatever is propos'd to be done respecting it for the present. Upon the report of the Indian Commiss^rs^ the matter will again be taken up and then it will be determin'd what authority Congress will exercise over the people who may settle within the bounds of

either of the new States previous to the establishment of a temporary govt whether they will leave them to themselves or appoint Magistrates over them—I think the enclos'd report will be adopted: it hath been several times before Congress & each time there were 8. states; to-morrow it is believed there will be 9. The plan of a requisition is before Congress. The States have fail'd essentially during the last year in making their payments. Virga hath pd I believe more than all the rest. The present plan is the proposal of the requisition of 8,000,000 as was that of last year. The amt necessary for the current year abt 3,000,000.—1. for the interest upon the foreign debt & expenses of govt & 2. the domestic debt. For the latter purpose facilities are propos'd to be admitted. I must confess I doubt the propriety of pressing old requisitions & think it wod be better to ascertain what had been pd by the several states upon that requisition, & upon the apportionment under it, what claims those paying most had on the others, and then begin anew making also a new apportionment. This wod be more simple & better understood. I am also rather doubtful of the propriety of doing anything whatever in the domestic debt. Several of the States, Pena in particular hath appropriated her money to her own citizens only. From her & the other states, taking the same course, we shall have no support. It appears then better to recommend it to the States to take on themselves the debts of the U. S. to their citizens respectively, let them be pd by State operations & then after liquidating the whole, and the quota of

each is ascertain'd, of the proportion of expences, of the late war, let the balance which either shall have advanced beyond its proportion be paid it by the Union. This is a new idea nor do I know that I shall suggest it further, but perhaps may hereafter more especially if it shall appear founded in justice and expedience. During the recess of Congress last year N^{o} Carolina made a cession of territory to the US. authorizing her Delegates to make the deed. Before Congress conven'd she repeal'd it. Lately a motion was made & a report upon it accepting the cession supposing the acceptance conclusive on the state. I was surpris'd to find it had so many advocates, there being six States in favor of it. I suspected it wo^{d} have again been taken up but was agreeably disappointed. The act gave Congress a year to accept it in & uses the term at the end of it " provided it shall not be accepted within that time it shall revert to the State." Yet I co^{d} not conceive it obligatory on the State untill accepted by the US., and of course until that event within the controul of the State. The people within the said territory had separated themselves from the State & declar'd themselves an independent state under the name of Franklin. Their agent was also here at the time upon that subject. He rec^{d} no countenance whatever, and all that was done relative to it was to renew the recommendation to the State to make a 2^{d} cession. It is in contemplation to send a Committee to N^{o} Carolina and Georgia upon the subject of western land & of finance to press their attention to those subjects—but of this as well as of the

other objects to which their attention may be turn'd I will write you more fully in my next. The great points which will be before the Union as well in those lines as that of commerce, will perhaps have taken their ultimate direction here in a few months or in the course of the year and then the several legislatures will be the theater of investigation. Committees of Congress may perhaps expedite their passage. I sho^d not have wrote thus freely without the cover of a cypher but from the confidence I repose in Mr Mazzei. He will deliver it to you personally. He hath been here about a fortnight and sails to-day in the packet. I have been much concern'd for an accident which happen'd to him here. While with us one evening his room was found open & his trunk with papers & money taken out. He recov'd everything except ab^t 40. guineas. As my colleagues write Mr Short I must beg his excuse for the present. I hope he is well. I am with great respect & esteem y^r affec: friend & serv^t

JA^s MONROE.

TO JAMES MADISON.

NEW YORK, July 12, 1785.

DEAR SIR,—I enclose a copy of the journals so far as they are printed. They contain nothing you will find respecting the requisition nor the commercial interests of the Union. The former upon the report of a committee hath been frequently before Congress of late and as often recommitted, in which state it now

lies. As the principal part of the debt which in other States forms a part of the present estimate, for the payment of whose interest the requisition is in that degree made, contracted by Q^r masters, commissioners, &^c with individuals in the liquidation whereof the commiss^rs of the U S. with those of each State are now engag'd, was contracted in ours by State impressments and of course consider'd and provided for as a State debt, we thought it our duty to propose "that in all cases wherein claims of individuals by payment of the principal or other satisfactory compensation have been transferr'd to the States of which they are citizens, the s^d states shall be consider'd as standing in the place of the individuals and entitled to all the benefits which wo^d otherwise have belong'd to them." Two thirds of the am^t requir'd will be necessary to discharge the interest upon the domestic debt, & this may be so modified on the collection as to admit certificates of interest in discount upon the liquidated debt: our object therefore was to extend this facility to the State to obtain for her a discount of so much as she paid to her citizens of those debts due them by the U States, and thereby prevent the payment of double her proportion, for the discharge of similar debts within other states, while she was exhausted by making it to her own citizens. To complete the facility to the States whose acc^ts were unliquidated we also propos'd "that for that reason and as each State suppos'd she had advanc'd her federal quota, and requisitions upon a contrary principle, untill they sho^d be liquidated, might be injurious

to those with whom it sho^{d} be the case, so far as they applied to the domestic debt that the requisitions might be so modified in their collection as that the States might pay in their quotas in either the principal or interest of such acc^{ts} as sho^{d} be liquidated." We presum'd the U. States wo^{d} be benefited by a state's availing itself of this facility, as it must always be the interest of the debtor to diminish the principal in preference to the interest of a debt where the engagment is not to pay interest upon interest. Lastly we propos'd "that —— dol^{rs} sho^{d} be deducted out of the requisition in payment of that am^{t} of the advances of the State for the expedition to the Kaskaskias &c^{a}" Those propositions were not rec^{d} in ye most favorable manner. As to the first they said "that the assumption on the part of the State & payment to its own citizens of the debts due by the U S. were voluntary acts, that such advances therefore must be consider'd upon the final liquidation of State acc^{ts} when the advances of all the States and their respective quotas were ascertain'd and apportion'd. That these advances also were in discharges of specific requisitions to which the State had given its assent in a motion by her delegates when the detachment of Wayne was marching southw^{d} We answer'd that the failure in specific requisitions (and we would grant we had absolutely fail'd which however was not the case) was like failures in all other requisitions, that if we paid less in that than other States we had exceeded in equal degree in other instances, that these payments or failures under requisitions stood on the same ground & were to be settled on the same principles. That

the resolution respecting Wayne was confin'd only to the troops under his command and untill he sho^d^ reach the Marquis of Fayette, or if extended to all the regular troops then in the State or during the campaign it had no connection with the militia and State impressments for militia & regular troops; or if extended to the whole in either instance and untill the payment of the whole requisition, for the extra-advance there sho^d^ be some consideration. In opposition to the 2^d^ proposition it was urg'd "that here is the estimate of the publick debt for the payment of whose interest a requisition is to be made; how can the interest be paid upon the estimate when the money necessary for it is to be applied to the discharge of the principal in some of the States." Upon the 3^d^ proposition we had previously taken the sense of Congress but we thought proper to bring it again to their view that we might know what they intended doing in it. They were all three committed after several days debate & the opinion of the committee being agñst them after a few days obtain'd a discharge. The report of the requisition will probably be brought in today. All the States eastw^d^ of Pennsyl^a^ inclusive are interested in keeping up the present estimate and regulating the collection of the sums call'd for so as to pay the interest of it and of it alone. In vain it is argued that it is not founded on the true state of the domestic debt and therefore improper & oppressive. That untill the liquidation takes place it sho^d^ be accommodated as much as possible to the convenience of the States. That it cannot be expected

whilst some of the States fail altogether & present at the same time an asylum to those who fly from the duties of gov^{t} that others will continue to harrass their citizens in making payments. I intended saying some thing upon the commerc^{l} subject but have not time. Don Diego de Gardoqui hath arriv'd & been presented to Congress. He presented a letter of credence from the King & has full powers to treat upon the subject of the disputed boundary &^{c} Yet he is stil'd Encargado de Negocios, in consequence of the character of our min^{str} at Madrid. We take his stile from his letter of credence & call him Encargado de Negocios. He is a polite & sensible man. I have inquir'd into the report of the commiss^{rs} of Georgia to treat with those of Sp^{n} & find it hath arose from the application of a vain old man to the Georgia legislature who rec^{d} for answer "they wo^{d} attend to it in good time," returning home under an impression his aff^{rs} were in a good way & gave those he conferr'd with reason to believe he was authoriz'd to treat. This the Delegates of that State suppose to be the case. Y^{r} several letters to Mr Jefferson I have regularly forwarded in the packets as I have rec^{d} them. I am dear sir very respectfully yr. fn^{d} & serv^{t}

JA^{s} MONROE.

P. S. What say you to a trip to the Indian treaty to be held on the Ohio—some time in August or Sep^{r}—I have thoughts of it & sho^{d} be happy in your company. We might meet somewhere on the way or perhaps you have thoughts of a trip this way. Packets sail every week eastw^{d} to R. Island & Boston

—a stage is also establish'd to lake George & the communication over lake Champlain to Montreal and Quebec easy & expeditious. Agreeable company may be found either way.

TO THOMAS JEFFERSON.

NEW YORK, July 15, 1785.

DEAR SIR,—By M^r^ and Mrs Macauly Graham I have the pleasure to transmit this. They intend immediately for the South of France and as from yours in March I had reason to suspect you intended thither I have suggested to them the probability of their meeting you in that quarter. This lady is the author of the history under her name. She hath been on a visit to Mount Vernon, hath been well receiv'd by Genl Washington & returns to Europe under the most favorable impressions of him. If you sho^d^ not be in the south of France as Mr Graham intends visiting Paris I have thought proper to enclose you by him the journals publish'd since the departure of Mr Mazzei. The report respecting the treaty with the Western indians hath been adopted, except in the change of the place at which it will be held, being the mouth of the Big Miami or the falls of the Ohio, instead of post Vincent, and the article respecting the people of the Kaskaskias & neighboring villages, w^h^ altho' first adopted was afterwards repeal'd from an apprehension it wo^d^ create too great an expence. The report proposing a change in the first paragraph of

the 9th & 10th articles of confederation hath been before Congress in a committee of the whole for two days past. The house was to take it up again on Monday in the same manner. It hath been fully discuss'd and in my opinion the reasons in favor of it are conclusive. The opposition however is respectable in point of numbers as well as talents, in one or two instances. From our State you will readily conjecture the sentiments of one, Hardy is for it, Grayson doubtful but I think rather in favor of it. Some gentn have inveterate prejudices agnst all attempts to increase the powers of Congress, others see the necessity but fear the consequences. It is propos'd by the latter & former classes that Congress form & recommend a Navigation Act to the States, to continue in force for a limited time. What will be done ultimately in this business is incertain. The report also upon the instructions hath been before Congress, and is referr'd to the consideration of some day next week. It will most probably be adopted. I have it in contemplation after a few weeks to sit out for the Ohio to attend the treaty above mention'd. This will complete my tour thro' the western country. I hope you have recover'd your health, Short also is I hope in good health & Miss Patsy. I am sorry to request you to inform Mr Mazzei that I have heard nothing from those he left in pursuit of the money he lost. I fear it hath not been found. I am with great respect and esteem yr friend & servant

Js Monroe.

P.S. Don diego de Gardoqui hath been presented to Congress. He produc'd a letter from the King with

full powers to treat upon the subjects arising between us; yet his stile is Encargado de Negocios. We have had some difficulty in regulating the etiquette respecting him. Whether to consider him as a minister or Encargado de Negocios, Chargé des Affrs, and to avoid giving offence we have us'd the terms us'd by his Master. We hope it will have the desir'd effect. A letter from the King with full powers I shod suppose constituted the minister, be the term or stile what it may.

TO JAMES MADISON.

NEW YORK, July 26, 1785.

DEAR SIR,—Since my last a report proposing a change in the first paragraph of the 9th of the Articles of confederation hath been taken up & acted on two days in a committee of the whole. It proposes to invest Congress with power to regulate trade externally & internally. Those in favor of it were of opinion that the exercise of this power in the hands of each State, wod be less advantageous to its particular interests, than in those of the Union, because if in the regulation of trade it was sought, 1. to encourage domestic industry in any line, by a tax upon foreign, which however remote at present may here after be the case. 2. if to obtain reciprocity in its commercial intercourse with foreign nations, either with or without treaties. 3. if to establish a commercial interest within, in contradistinction to a foreign one, and thereby keep its councils independent of foreign influence. 4. or to raise

a naval strength for the publick safety. All these ends might be obtained more effectually by the exercise of the power in the hands of the Union than of each State. For unless they act in concert in every instance instead of counteracting the regulations of other powers, they will become instrumental in their hands to impede & defeat those of each other; that there was but one alternative either to act together or against each other, that the latter plan establish'd deep-rooted jealousies & enmities between them, at the same time that it wo^{d} be unsuccessfull, greater under its operation for any length of time than they wo^{d} have against other powers, since being more convenient & better able to frustrate each others measures, their restrictions must be more severe and pointed agn̄st each other than agn̄st other powers. That such a course tended to throw them apart & weaken the present rights of the confederacy. That their interests were nearly similar being all exporting & importing States—that it was of little consequence whether they exported the same or different materials, since the restrictions which tended to restrain exportation, wo^{d} injure the whole, & they were all equally interested in getting their admission upon the best terms into the ports of foreign powers. That they imported nearly the same materials & of course had the same interest in that line. That if there were different interests in every instance the restriction of every measure to 11. States, the number propos'd, with the revenue to each State wo^{d} form a sufficient security. On the other side it was argued 1. that it

was dangerous to concentrate power, since it might be turn'd to mischievous purposes; that independent of the immediate danger of intoxication in those entrusted with it, & their attempts on the government, it put us more in the power of other nations. 2. That the interests of the different parts of the Union were different from each other, & that the regulations which suited the one would not the other part. That 8. States were of a particular interest whose business it wo^{d} be to combine to shackle & fetter the others. 3. That all attacks upon the confederation were dangerous & calculated even if they did not succeed to weaken it. These I think were the principal arguments on either side, tho' they were carried out into great extent. I think Col^{o} Grayson inform'd me some time since he had transmitted to you the report, otherwise I sho^{d} now do it. I wish very much your sentiments on the subject. By the packet we are inform'd that Mr. Adams had arriv'd in London, been presented to the King & well receiv'd. The ceremonial had only taken place when his dispatches were forwarded, so that he had not proceeded to business. Mr Gardoqui is here; Congress have authoriz'd the Secretary for foreign aff^{rs} to treat with him upon the subject of his mission. I am, etc.

JA^{s} MONROE.

P.S. I enclose you a treatise of Mr Mazzei in favor of the port bill in Italian. I promis'd him to attempt a translation of it but really I distrust my knowledge of the language too much to attempt it provided I had leisure, which is not the case; he undertook it

upon the desire of Col^{o} Innes for whom principally the translation is intended. By committing it to you, I trust to promote his views more than I shall otherwise have it in my power to do.

TO JAMES MADISON.

N. York, August 14th, 1785.

Dear Sir,—Yours of the 28th of July I receiv'd by the last post. The rout from hence to Boston may be effected by stage in 5 days, to lake George in the same time, thence to St. Johns in three perhaps less. To Montreal one, & thence to Quebec in two, but in the latter instance it must be posted. In either rout you will have no difficulty, for the boats and stages are under good regulation. I have been in doubt for some time which to prefer, the trip to Boston or the Indian treaty (having gratified my curiosity as to Canada) & have at length given way to the circumstances which urge in favor of the latter, viz: the security & facility of travelling with the Com^{rs}, an opportunity w^{h} may not offer again whereas a trip to Boston will be always equally practicable. It wo^{d} give me pleasure to meet you in Phil^{a} but as you delay y^{r} mov'ment untill you hear from me, cannot expect it, since I sit out hence on the first of Sepr to join Genl Butler in Carlisle. I shall return from the treaty thro' the wilderness & see you at Richmond as you will be in the Assembly. By the first of Sepr we expect the most important business will have been decided on ultimately, or postpon'd for the Winter. The requi-

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sition will have pass'd, unless new difficulties arise. This subject hath been sifted thoroughly, with the advances of the several States during the contest, & their claims upon each other under them respectively. We cannot but lament that the state of our acct^{s} agñst the Union is in such a situation as to leave us totally in the dark with respect to it. We have no documents & have therefore only conjecture to build our most important measures on. Several men have been in pay for years in Richmond and yet have reason to believe they have done little. Surely the state will pursue the most efficatious measures upon this head & no longer suffer her interests in that line to be neglected. Those states whose acct^{s} are unsettled are not only subjected to great disadvantages in the requisition but are estimated as avoiding it designedly for the purpose of evading the payment of what they owe to the other states, having fail'd as they presume to advance their federal quota. The contrary of this will, we suppose appear upon a settlement. Why then, say they, delay it? Does it arise from our refusing anything you ask to effect it, or the negligence of your government? The report upon the 9th of the articles of confederation will not I believe be finally determin'd untill the Winter. It will however probably be taken up merely for the sake of investigation & to be committed to the journals for publick inspection. You have I understand a copy of & I wish much y^{r} sentiments on it. A Navigation Act by recommendation hath been propos'd in conversation & debate but not submitted to the inspection & consideration of

Congress. This is the other plan & sho.d not be adopted, but in the ultimate decision, that it is improper the power sho.d rest in Congress: if this sho.d be the decision it might be well to collect better information from the merchants of each State than Congress now possess on the subject, indeed with or without the power, this information sho.d be obtain'd or we may err in the Act. If this report sho.d be adopted it gives a tie to the confederacy w.h it hath not at present nor can have without it. It gives the States something to act on, the means by which they may bring ab.t certain ends—Without it God knows what object they have before them, or how each state will move, so as to move securely, with respect to federal or state objects a report revising the 175. 428. 438. 508. 430. 589. 386. 296. 430. 331. 233. 170. 75. 230. 177. 89. 21. 473. 3. 200. 40. 430. Changing the principle & substituting that of the 343. 573. the 297. 122. 414. 302. 263. 508. a simple bargain with each founded in the nature 573. 386. 249. 31. 618. 184. respectively hath been twice before Congress & postpon'd. It investigates fully the impolicy of those form'd on that principle, since in the opinion of the Committee they obtain nothing from the powers not having 301. 430. 430. 40. 430. 202. 330. 430. 250. the 416. 338. 40. 430. w.h we may not obtain without them & embarrasses us in any restrictions we may lay on the 436. 30. 150. of those who have. It being the only means by which we are to remove the restraints which now exist. This alternative seems to obtain the assent of Congress & will most probably be ac-

ceded to if there will be a sufficient number of States on the ensuing week. A 45. 581. 251. 45. 500. 390. 508. with 143. enter'd into under instructions of Congress long standing (but from w^h^ the Secr^y^ of f. aff^rs^ thinks there are substantial deviations) by 314. 150. 331. 326. 495. 142. 19. 508. Universally disapprov'd will most probably be postpon'd for the present. I shall write you again before I sit out if any thing arises worthy communication. I am, Dear Sir, y^r^ friend and servant, JA^s^ MONROE.

TO THOMAS JEFFERSON.

NEW YORK, August 15th, 1785.

DEAR SIR,—I have had the pleasure to receive yours by Mr Adams with the cypher accompanying it & am happy to hear of the recovery of your health. I have only fail'd writing you by two of the packets the first of which sail'd before I had been advis'd she wo^d^ & the 2^d^ while I was ill of a pleurisy w^h^ I caught by walking in the rain to Congress & had like to have given me my final repose. Col^o^ Smith, Mr Mazzei & Mrs Macaulay Graham have since carried my letters to you, or rather took charge of them for that purpose. In those letters I gave you full information of the previous transactions in Congress as well as of the important business still before us. It therefore now remains to give you the progress since that time. The report proposing to invest Congress with the power to regulate commerce hath been twice before Congress in committee of the whole. It met with no opponant

except the president.[1] By this I do not mean that there were no others oppos'd to it, for the contrary is the case. They however said but little or rather committed their side of the question to his care. In favor of it there were but few speakers also. The committee came to no conclusion but desir'd leave to sit again. A second plan hath been propos'd, a navigñ act digested here & recommended to the states. This hath not been presented but probably will be. One wo^d expect in a particular quarter of the Union perfect concert in this business. Yet this is not altogether the case. The 2^d plan above allud'd to takes its origin with Mr Henry. The Eastern people wish something more lasting & will of course in the first instance not agree to it. They must therefore come in with that propos'd in the report. You will ask me why they hesitate? To be candid I believe it arises from the real magnitude of the subject, for I have the most confidential communications with them & am satisfied they act ingenuously. They fear the consequences may possibly result from it. The longer it is delay'd the more certain is its passage thro' the several States ultimately. Their minds will be better inform'd by evidences within their views of the necessity of committing the power to Congress, for the commerce of the Union is daily declining; the merchants of this town own I am told not more than two ships. I wish much to hear from you upon this subject. I expect it will be brought on again shortly, if for the purpose only of committing it to the journals, it may then be delay'd for some time untill we

[1] Saml Holten, of Mass., was Chairman of the Committee of the Whole.

may obtain full information on it. The report changing the instructions for forming commercial treaties will I believe be adopted. It changes the principle & puts an end to that of the right of the most favor'd nation. The policy of forming a treaty with powers not having possessions in the U.S. is doubted Since from them we can obtain as much without as with a treaty, and such treaties whether upon that or any other principle in effecting the main object we have in view, the opening the islands by treaty with those who have them, may embarrass us. This is conceiv'd to be the only end w^h^ can be obtain'd upon principles of expedience to us by treaty. Of course that with Sweden &^c^ is unfortunate. Mr Adams seems to suppose the principal object in his mission to the court of London was the formation of a treaty; but the contrary was certainly the case: it was merely to conciliate & prevent a variance w^h^ seem'd to threaten at that time. He might however readily make this mistake under the present instructions. A treaty is not expected & I am satisfied the majority here wish all propositions on that head to cease, at least for the present, and untill our restrictions on their commerce have effected a different disposition. Mr Jay is authorised to treat with Mr Gardoqui upon the subjects arising between the two parties. He is to lay every proposition before Congress before he enters into any engagement with him. As yet we have heard nothing from him. The Consulate convention lately formed with France is universally disapproved. It was formed under instructions but in the opinion of the secretary of foreign

affairs hath been deviated from. I have not had time to examine it attentively so cannot decide as to this fact. I shall sit out on the first of Sepr for the Indian treaty on the Ohio & return thence thro' Virg^a, & provided I shall be continued in Congress, to this place. I shall however attend the fœderal court for the trial of the controversy between Massachusetts & New York in Novr so that I doubt whether I shall reach this before Decr or Jany next. The requisition will pass I expect this week & most of the important business remaining in a train for decision or be postponded for the winter. I have however no expectation that Congress will adjourn for the present year. I intended to have given you something of domestic news but am inform'd the mail is just closing—by this however, do not suppose that I have any thing worthy communication for the contrary is the case. I sho^d be forc'd to look about me to find out anything you wo^d have patience to read. A. Lee is elected in the B^d of Treasury—we were under the necessity of having some one from the State & advocated his appointment. How is Miss Patsy? How is Short? How are they pleas'd with France? I must observe that Congress seem to expect the court of France will send a Minister here. To visit you wo^d give me infinite pleasure. Whether I shall be able or not depends on circumstances. If I do it will be in the Spring after Congress adjourn or at least the most import^t business is finish'd. I send you the journals and am dear Sir y^r affectionate friend & servt,

Ja^s Monroe.

TO THOMAS JEFFERSON.

NEW YORK, August 25th, 1785.

DEAR SIR,—Since my last nothing very material hath taken place here. I leave this merely to inform you of my departure hence for the Indian treaty on the Ohio wh will be in abt two hours. The two commercial propositions are as they were. Although Congress will, I believe, not adjourn yet I apprehend the business of consequence will be postpon'd for the present, perhaps till the winter. There is but a thin represn of the States & of course not the ability if the inclination to act on these subjects. I intend to take within my view the country lying between Lake Erie & the Ohio, & the Potommack or Jas River, as it may suit me to return by the northern or southern part of the State. I pass thro' Lancaster & Carlisle at the latter of wh posts I join Genl Butler.[1] The people of Kentucky intend I hear to petition the legislature for a separation. I must confess, I am one of those who doubt the policy of this measure (for I make no doubt it will be granted) either upon State or Federal principles. My opinion is we cod so model our regulations as to accommodate our government to their convenience, and unquestionably the more we diminish the State, the less consequence she will have in the Union. On the part of the Union or rather the States upon the Atlantic, it is, in my opinion, their policy to keep a prevailing influence upon the Ohio, or to the

[1] One of the commissioners to treat with the Indians. The others were George Rogers Clarke, Philip Schuyler, Samuel Holden Parsons, and Robert Howe.

westward. What unites us to them, or rather them to us when the Missi^pi shall be open, remov'd at a distance from whatever may effect us beyond the water they will necessarily be but little interested in whatever respects us; beside they will outnumber us in Congress unless we confine their number as much as possible. In my opinion this matter sho^d be well investigated before any measure is hastily adopted. I direct your letters to be forwarded to me to Fredericksburg. So soon as I return to the settled country I shall advise you of it & am your affectionate friend & servant,

Ja^s Monroe.

TO JAMES MADISON.

New York, Decr 19, 1785.

Dear Sir,—I arriv'd last night & found only six States present. Mr. Hancock we hear is on the road & will be with us in a few days. He accepts the chair. The conduct of the legislature in complying with the requisition of Congress,[1] in the opinion of all here, does the highest honor to the State, and at the same time that it evinces a regard for publick justice & a mind superior to little resentments, gives an additional assurance of the strength & permanence of the federal government. We earnestly wish to have the result of the deliberations of the house upon the commerc^l propositions. I find the most enlightened

[1] Sept. 27, 1785, Congress made a requisition on the States for $3,000,000 for the year 1785. Of this amount Virginia's quota was $512,974, which was promptly appropriated by the legislature at its October session.

members here fully impress'd with the expediency of putting an end to the dismemberment of the old States—doubtful of the propriety of admitting a single new one into the Confederacy & well inclin'd to a revision of the compact between the U. S. & Virg.ª respecting the division of the country beyond the Ohio. M.r Jones s.d he w.d visit Fredericksburg before C/hs. I will write him by the next post. I hope you are both well, & am very sincerely, your friend and servant,

JA.s MONROE.

TO JAMES MADISON.

NEW YORK, Dec.r 26, 1785.

DEAR SIR,—Your favor of the 9th reach'd me a few days since. Mine by the last post advis'd you of my arrival here; still I am without a colleague and the representation of the States, the same. I am perfectly satisfied that the more fully the subject is investigated, and the better the interests of the States severally are understood, the more obvious will appear the necessity of committing to the U. S. permanently the power of regulating their trade. Whether it will be expedient to accept it for a limited time only it is difficult to determine. If it is expedient for a day, while the states bear the relation they now do to each other & to other powers, or rather while they adjoin each other & are bounded by the ocean, it will still be so. Whether then will it be expedient to avail ourselves of the present disposition so far only as to try an experiment, the success of w.h, as such, must depend upon a variety of circumstances, or to delay any remedy until under the

pressure of the present difficulties it may be made complete? As an experiment in what light will it be conceiv'd & how treated by foreign powers? Will they not all wish to defeat it and of course avoid those stipulations in our favor wh. may hereafter furnish arguments for its renewal? We may with propriety also take into the consideration the diversity of interest wh. will arise in the admission of western states into the Confederacy. In a govt. also so fluctuating there will never be energy or calculation on it either at home or abroad, every thing will be in a state of incertainty. The states severally will be at a loss how to act under it, (in their respective delegations); they will fear to take those decisive measures with respect to other powers, wh. might be necessary, least their vigorous operation may prevent its renewal—but whether these or any other considerations, may be of sufficient weight to induce us to seek only a permanent change, is what I have not absolutely determined on. I beg of you to give me your sentiments thereon as well as on the course you think I may with propriety take here, provided the state shod. confide it only for a limited time. Some despatches have lately been recd. from 94. 70. 430. They are as we expected they wd. be. 385 admits that the 440. 139. 300. 497. 350. 573. 432. 40. 330. 40. 289. 40. 430 is a 475. 300. 221. 508. 573. 432. 40., that when the 462. 230. 10. 17. is 3. 430. 20. 117. 483. 175. 30. they must 587. 931. 358. That they will take up the subject of 432. 40. 301. 409. 430. with that of the 30. 40. 10. 400. 430. Yet he says that the 415. 350. 263. 508 are 213. 541. 409. 589. 500. 430.

That they will give us no 75. 230. 117. 89. 21. 453. 3. 495. That they have sent 303. 279. 440. 200. 202. 166. 330. 348. 330. for 19. 263. 114. with 203. 440. 209. 97. 198. 589. 350. 430. &c.

This is the amt of what we have, nor can I well determine how you shod act under it. If it be practicable to carry into effect a complete complyance on our part, let their conduct be as it may, I shod not hesitate to adopt it. But if this is not the case, I cannot well conceive the advantage of a partial complyance, or the paymt by instalment, as hath been heretofore propos'd. If they mean to quarrell their ground for it will be equally justifiable, in that instance, as in an absolute failure. And if the end we seek, is to be obtain'd by further negotiation, or by bargain of one for the other, by this measure we lose the consideration we shod have to give for it. In all the measures of this country[1] toward us we perceive not only the utmost vigilance & attention to their own interest in opposition to ours, but a disposition to seek opportunities to injure us. They restrict us most severely in commerce, give land, & provisions to our fishermen to settle within their bounds, and we have too much reason to suspect that they encourage the Algerines to attack us. In this situation to whom may we look for assistance even against these pirates. The Monopoly of the trade of the Mediterranean is in the hands of France, Britain & the Netherlands. Will they or either of them, give up this advantage, for our convenience for nothing? Is it not strange in this situation that we shod be dis-

[1] Great Britain?

puting whether we shall act together or cement and strengthen the union.

There hath been a newspaper controversy here between Mr Jay & Mr Littlepage of our State, upon some subject of a private nature between them. As I have not read their publications I am unacquainted with the merit of either party. It is however to be lamented that Mr Jay enter'd into a controversy of the kind, since his character is too well establish'd to be call'd in question upon any unimportant or trivial occasion. Be so kind as give no intimation to any one except Mr Jones of the contents of what I have wrote you in cypher. I am, etc.

Jas Monroe.

P.S. Is the revenue law in any respect chang'd?—Are the facilities of other states admissible in payment of taxes, or rather is it accommodated to all the purposes of the requisitions? Our Ministers are taking measures with the regencies of Algiers &tc It is sd that Mr Consul Barclay, & Mr Lamb & Majr Franks are sent to these different powers for this purpose, but the latter I think is not confirm'd by our official communication.

TO THOMAS JEFFERSON.

New York, Jany 19, 1786.

Dear Sir,—My last advis'd you of my departure hence on the 24th of August last for the westwd with the intention to take a view of the Indian treaty to be held at the mouth of the big Miami, and of the country lying between lake Erie, and the head waters of

the James or Potom^k^ rivers, with those w^h^ empty from either side into the Ohio. Thence to attend the federal court[1] on the 15th of Novr at W^ms^burg, but the danger from the Indians made it imprudent for me to pass the river, and the delay at fort Pitt, and upon the Ohio, the water being low, consum'd so much of the time allotted for this excursion, that I was forc'd to leave the Commiss^rs^ at limestone and take my course directly thro' the Kentucky settlements & the wilderness to Richmond, so that I was neither gratified with a view of the treaty, or to such a degree with that of the country as I had propos'd. I arrived at Richmond on the 14th of Nov^r^ & found there letters for me from the agents of the two States with advice that the session of the c^t^ had been deferr'd. I therefore prepar'd as soon as possible to sit out for this place & arriv'd on the 18. of Decr. I found in Virginia & in this town letters from you of 17. of June, the 5. & 12. of July, & have since had the pleasure to receive that addressed by Mr Franklin of the 4th from himself. He was here a few days since upon some private business & was so kind as to favor me frequently with his company. I have also been much pleas'd with an acquaintance with Mr Otto. He hath made an impression here very flattering to himself & favorable to the idea you entertain of him. It hath been matter of great surprise & concern here that the dispatches respecting the barbary powers sho^d^

[1] The Court organized to determine the territorial controversy between Massachusetts and New York, of which Monroe was a Commissioner at that time.

have been so long in reaching you. This Mr Lambe was presented to some of the gentlemen in Congress, by the late president Huntington. At that time it was propos'd, & for wh purpose a report was brought in to carry on these treaties immediately from the U. S. & to appoint the persons & despatch them hence to fit out the Alliance, load her with naval stores & present her to the Emperor. By this procedure it was presum'd we might, by telling these Powers that we were as yet unacquainted with them or their wants, succeed better than even under the mediation of France. And the secretary of foreign affairs having reported that this man was fit for the negotiation the comn advised that he be employed, but it was rejected. We have since heard that he was from his station in life & probable talents, by no means worthy such a trust. We have lately heard from Mr Adams that Mr Barclay with Frankes are sent to the Emperor & that Mr Lambe & a Mr Randall to Algiers. These pirates have already made a a great impression upon our trade and unless these negocen: prove successful will materially injure it. I am happy to receive yr sentiments upon the subject of commercial treaties & will with pleasure communicate mine to you more fully than I heretofore have done. With great propriety you have in the first instance taken it up with reference to the powers of Congress, for upon those does the whole depend, and I intirely agree with you that they have no original inherent jurisdiction over the commerce of the states, and that it commences & can be exercis'd only by

treaties with other nations ; how then will this circumstance affect us ? When we propose to them to form treaties they will enquire do we labor under any inconveniences w^h^ thereby we can remove ; they will examine their situation in our ports to ascertain whether treaties can obtain, fairer or more equal terms to them, are these temporary or so founded in the nature of their government that they will be perpetual ? If then it shall appear that we can give them nothing they do not at present enjoy, and that we cannot deprive them of these advantages, I think it will follow they will lay themselves under no restriction it wo^d^ not otherwise be their interest to do. To obtain reciprocal advantage then cannot possibly be the object with other powers in treating with us, for more than this they now possess. But nations are often benefited as much by obtaining restrictions upon others in the ports of a particular one which do not apply to themselves, as by particular stipulations in their own favor. And upon this principle treaties are some times form'd as was the case in that between Britain & Portugal. How stand the powers of the Union and how their interests with respect to a treaty of this kind ? For instance can they stipulate with France that British goods shall pay ten per cent higher duties here than those of France in consideration for a free trade with her islands. This certainly does not come within the provisos contain'd in the Confed^n^ and is of course within the powers of Congress nor have I any doubt of its expedience, if it co^d^ be obtain'd. Treaties of this kind wo^d^ be more favor-

able to us and successful, as to the particular objects it might seek, than an entire prohibition of commerce with the powers with whom we have none. By seeking this power it wo^d^ seem as if we were satisfied with our situation with those with whom we have treaties. That those with whom we have not were culprit nations & that we wo^d^ exercise it immediately on them. If then we are dissatisfied with our treaties with France & the Netherlands this right of prohibition can never avail us with respect to them. And in its exercise upon other powers it may give a dangerous shock to our commerce & a monopoly of it to other powers. And if holding the power we proceeded wisely with it & endeavor'd to turn it to the best acc^t^ we co^d^ and to make it a condition with France that we wo^d^ put it in force against her for such or such other considerations, yet co^d^ we not obtain the same ends for less expence; for instance for the imposition of ten per cent upon her commerce. Every expedient is unquestionably inferior to the complete & absolute controul over commerce in the hands of the U. S. But this plan of a treaty appears to me to be a better succedaneum for the defect than any other I have heard, since it creates the restriction we w^d^ wish to effect upon the offending nation and brings us at the same time upon the ocean as a commercial people. They might be of short duration. Those treaties w^h^ stipulate to each other the rights of the most favoured nation obtain none of these ends and appear to me to fetter us as to the powers with whom they are made. It fetters us as to the imposition of higher duties on them than we

impose on others or subjects us to a variance, while it admits on their part of a constant deviation from the spirit of the treaty by the explication w^h^ it authorizes them to make of the compensation. Nothing hath been done on this subject since my last. In my next I may add something further on it. The commission will expire soon but as an other may be given or instructions form'd respecting it I beg you to give me further y^r^ sentiments on it. My several routs westw^d^ with the knowledge of the country I have thereby obtain'd, have impress'd me fully with a conviction of the impolicy of our measures respecting it. I speak not in this instance of the ordinance for the survey and disposal of it, but of those w^h^ became necessary & were founded upon the act of cession from the State of Virg^a^. I am clearly of opinion that to many of the most important objects of a federal government their interests, if not oppos'd will be but little connected with ours; instead of weakening theirs & making it subservient to our purposes we have given it all the possible strength we co^d^; weaken it we might also and at the same time (I mean by reducing the number of the States) render them substantial service. A great part of the territory is miserably poor, especially that near lakes Michigan & Erie & that upon the Mississippi & the Illinois consists of extensive plains w^h^ have not had from appearances & will not have a single bush on them, for ages. The districts therefore within w^h^ these fall will perhaps never contain a sufficient number of Inhabitants to entitle them to membership in the confederacy, and in the mean

time, the people who may settle within them will be govd. by the resolutions of Congress in wh. they will not be represented. In many instances I observ'd above, their interests will be oppos'd to ours. I will mention one wh. arises from their relative situation to other powers. Their eastern frontiers will be covd. from the nations of Europe by the 13. old States, & I may say that their Northern & Southern, also will, for no power will march an army to attack them by the Mississippi or St. Lawrence without making a powerful impression on these States at the same time, or indeed after subduing them; In all questions in wh. we were parties, the attack wod. be on us; upon us therefore wod. the burden & event of the contest depend, & we must be parties in all cases while they are of the Confederacy. The tendency wh. at present prevails for a dismemberment of the old States not only increases their strength but will also add to the diversity of interest. At the instance of which of the states hath the right to the navigation of the Mississippi been carried thus far, and if you lop off the western parts of those states by whom it was brought about will you not necessarily withdraw them from that pursuit? Whatever shall be done or attempted on this subject I will transmit you. The subject of the mint was taken up last summer & determin'd that the unit shod. be a dolr. It was afterwards postpon'd. It will be taken up agn. so soon as we have 9 or ten States (for at present we have but 7.). The proposition for recommending it to the states to vest the U. S. to regulate their trade is still before Congress. What

will be its fate is incertainty. Accept my acknowledgements for y^r^ book w^h^ I have read with great pleasure & improvement & be assur'd I will keep it as private as you might wish, until you shall consent to its publication w^h^ I hope will be the case.[1] I sho^d^ suppose the observations you have made on the subject[2] you allude to w^d^ have a very favorable effect, since no consideration w^d^ induce them but a love for the rights of man & for your country. Whether I shall be able to visit you is still doubtful. My dependence is almost altogether on the bar—by my late absence I have left the door open to others, the sooner I therefore return to it the better it will be for me. I feel myself returning to the same train of thoughts upon this subject as when I had finish'd my studies. I am thinking of settling at Richmond, building an house, &^c^. Will you be so kind as transmit me a plan—suppose the house when finish'd to cost 3. or 4000 dol^rs^ (a part to be finish'd only at first). I shall I believe commence it as soon as I receive it. Be assur'd I will attend to those circumstances w^h^ you mention of a private nature so soon as we shall have a sufficient number of States to do it with effect. This must be shortly. If I shall have time before the packet sails, I shall write Mr Short, if however I sho^d^ fail you will make my apology. Of the death of our worthy friend Mr Hardy[3] you have heard. He had been indisposed of a bilious complaint w^h^ had been

[1] *Notes on Virginia*, a copy of which Jefferson had sent Monroe, with an injunction of secrecy.

[2] Slavery.

[3] One of Monroe's colleagues in the Virginia delegation.

badly cur'd & weaken'd thereby his system to such a degree as to have fail'd under the fatigue of a ride to Kings bridge. A vein broke or some vessel within him—wh^h ultimately carried him off. His loss to me is considerable not only as a person with whom I sho^d been happy to have liv'd in intimacy hereafter, but in the delegation, more especially as I am unacquainted with those added to it, Col^o Carrington & Henry Lee of the horse. Mr Gerry is lately married to a Miss Thomson of this city—a polite and amiable woman ab^t 22. years of age. I am with my best wishes for y^r health & happiness y^r affectionate friend & servant

Ja^s Monroe.

TO JAMES MADISON.

New York, Feby. 9, 1786.

Dear Sir,—I have rec^d yours of the day subsequent to the adjournment of the Assembly. Since my last the subject of the impost has been taken up, a report made on it some time last year was recommitted & a report being brought in to the following effect, viz: that it be earnestly recommended to the States of New York & Georgia, the only States, who have fail'd in some degree or other to comply with the recommendation of the 18th of April 1783, to take into their immediate consideration, especially that part w^h respects the impost, & to comply with the same stating further that the plans authoriz'd by the confederation have fail'd, or are highly inexpedient, viz: requisitions, loans, or emissions of paper bills of credit. It

implies a relinquishment of the supplementary funds, and admits the necessity of a further reference to the States and especially R. I. to extend their powers upon that subject so as to come up to the recommendation. Being taken up it was delay'd & protracted by its advocates, particularly Mr Pinckney & ultimately (there being but 7 States present for it) postpon'd to take up a motion of his own, to the same effect, but in different language; this is now under consideration & will probably pass today. This subject hath imploy'd Congress for several days, so that nothing else hath been before them since the arrival of M. Lee.

I have confer'd with Mr Scott upon the subject of his lands upon the Mohawk river. I enclose you a draft of a patent in w^{h} he owns an undivided right to about 8000 acres—he wishes to sell—his terms are, in short payments, by w^{h} he means ab^{t} one third immediately & the other two thirds in annual payments 20. S. New York currency—I have heard that similar lands may be obtain'd still cheaper, even of the same tract—but of this I am not yet ascertain'd—I believe it will make no difference as to the quantity in the price. He has he says given orders to his agents to dispose of none until I hear from you. If you are inclin'd to purchase & can spare the time I think you had better come here, since perhaps you wo^{d} be able to make a better bargain than any of y^{r} friends. He says he will have the land divided & sell if you prefer tracts ascertain'd; but I understand this wo^{d} in case you had y^{r} election, raise a few shillings the price. If

you sho^d decline coming I need not inform you that you may command to any purpose you may please any services I can render you. In this instance you had better associate with me, Col^o Grayson, who will probably be here in a few days.

yr^s affcy.

Ja^s Monroe.

TO JAMES MADISON.

New York, Feby. 11, 1786.

Dear Sir,—In my last I mention'd to you, the subject of the impost was reviv'd & that a report of a committee had given place to a motion of Mr Pinckney, the latter being still before the house; the report, and motion with a report from the B^d of treasury to the same effect have since been committed, in which state the business now lies. I inclose you a paper containing the report.[1] It is doubted whether in any event this State will adopt it. Those members elected in opposition to such as were turn'd out, for their op-

[1] This report—from a committee consisting of Mr. King, Mr. Pinckney, Mr. Kean, Mr. Monroe, and Mr. Pettit—was adopted February 15, 1786, and Congress on the same day passed the following resolutions.

"Resolved—That the requisitions of Congress of the 27th of April 1784, and the 27th of Sept. 1785, cannot be considered as the establishment of a system of general revenue, in opposition to that recommended to the several States by the resolves of Congress of the 18th of April 1783.

Resolved—That the resolves of Congress of the 18th of April 1783, recommending a system of general revenue, be again presented to the consideration of the legislature of the several States, which have not fully complied with the same: That it be earnestly recommended to the legislatures of New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Virginia and South Carolina, which have complied only in part with the said system, completely to adopt the same; and to the legislatures of the States of Rhode Island, New

position to this measure, have I hear modified their sentiments & act under them. They are it is said possess'd to great amount (I mean the leaders of the party) of publick securities and doubtful of their payment by federal exertion, seem inclin'd to pursue the course Pen[a] latterly did & provide for it, by establishing State funds. The more extensive the funds of the State, & the more fully they exclude the citizens of other States & foreigners from such provision, the better of course for the party.

I am, sincerely y[r] friend & servant,

JA[s] MONROE.

If you visit this place shortly I will present you to a young lady who will be adopted a citizen of Virg[a] in the course of this week.

TO JAMES MADISON.

NEW YORK, March 19, 1786.

DEAR SIR,—I inclose you a copy of M[r] Jay's publication of the correspondence between him and

York, Maryland and Georgia, which have not adopted the said system, either in whole or in part, to pass laws, without further delay, in full conformity with the same. But as it is highly necessary that every possible aid should in the most expeditious manner be obtained to the revenues of the United States, it is therefore recommended to the several States, that, in adopting the said system, they enable the United States in Congress assembled to carry into effect that part which relates to the impost so soon as it shall be acceded to.

Resolved—That whilst Congress are denied the means of satisfying those engagements which they have constitutionally entered into for the common benefit of the Union, they hold it their duty to warn their constituents that the most fatal evils will inevitably flow from a breach of public faith, pledged by solemn contract, and a violation of these principles of justice, which are the only solid basis of the honor and prosperity of nations."—*Journal of Congress*, Feb. 15, 1786.

Mr Littlepage revis'd and corrected.[1] It may furnish some matter of entertainment. Jersey having taken into consideration the late requisition, the house of delegates resolv'd that having enter'd into the confederation upon terms highly disadvantageous to that state, from the necessity of publick Aff^rs^ at the time, and a confidence that those points in which they were aggriev'd wo^d^ be remedied and finding this was not the case and a compact founded in such unequal principles likely, by their acquiesence to be fetter'd on them, they wo^d^ not therefore comply with the same untill their grievances were redress'd; in the course of their reasoning they mention the failure of some States to comply with the impost and seem to rest themselves on that ground in such manner as to intimate that if they sho^d^ comply their objections wo^d^ be mostly remov'd. This resolution being brought before Congress gave great uneasiness. It is to be observ'd that here is no express Act of Legislature but merely the negative of a proposition to comply with the requisition in the branch with whom it sho^d^ originate. They therefore are in a less direct opposition to the confederation than if it were the Act of the legislature; but being in a high degree reprehensible Congress resolv'd that a Committee be appointed to attend the legislature & endeavor to prevail upon them to recind the resolution & accede to the measure. The Committee were, Pinckney, Gorham, & Grayson; they left us immediately & have not since return'd.

[1] See Johnston's *Correspondence and Public Papers of John Jay*, volume iii. page 181.

We have in the papers an act stated to be of R. I. passing the impost in the full latitude recommended by Congress—it is believed to be the case—in that event this state (New York) will most probably pass it also—It is also s^d^ that Georgia hath pass'd it—A report urging in very pointed terms a complyance with the recommendation for changing as therein propos'd the 8th of the articles of confederation is before congress. It will most probably pass, altho' some gent^n^ in the Eastern States wo^d^ willingly throw it aside. The better dispos'd & better informed are aware of the impolicy of an opposition to it even if injurious to those States (w^h^ is not admitted) while they seek a more important Alteration in the extension of the powers of Congress in the regulation of trade. You will before this have heard that I have it in my power to make you acquainted with a lady of this State adopted of Virg^a^

I am sincerely y^r^ fr^d^ & servant

Ja^s^ Monroe.

TO THOMAS JEFFERSON.

New York, May 11, 1786.

Dear Sir,—Since my last I have rec^d^ yours of Decr 11th & Jany. 27th last. Untill lately we have had so thin a Congress that few acts of consequence have pass'd, a very pointed recommendation to those States who have hitherto declin'd to accede to the recommend^ns^ respecting a revenue system only excepted. Since which R. Island & Georgia have acceded to the impost fully, so that it now depends on New York,

who has also granted it but under restrictions as to the officers to carry it into effect, & Pen^{a} & Delaware who have limited the operation of that part w^{h} respects the impost to the adoption of the other or supplementary funds by all the States, having adopted both themselves. I am inclin'd to believe this measure will pass the Union in the course of the year, so as to be carried into operation. We have now 11. States present & a member from the other two—it is expected we shall have the 13. shortly.

The Commiss^{rs} for treating with the Western & Southern Indians have concluded treaties in both instances with the principal tribes & return'd a statement lately of their proceedings to Congress. The object for w^{h} these commissions was instituted seems to be now fully obtain'd, and as further managment of those tribes so as to regulate the trade & keep up a good understanding with them, is to be effected by some permanent arrangement, I apprehend these commissions will be annull'd and such system adopted. The subject is now before a Committee. In my last I mentioned to you that the propriety of the acts of Congress founded on the condition of the acts of cession from the States, fixing the limits of the States westw^{d} was question'd—a proposition or rather a report is before Congress recommending it to Virg^{a} & Mass: to revise their Acts as to that condition so as to leave it to the U. S. to make what division of the same future circumstances may make necessary, subject to this proviso, "that the s^{d} territory be divided into not less than two nor more than five States." The plan of a

temporary govt to be instituted by Congress & preserv'd over such district untill they shall be admitted into Congress is also reported. The outlines are as follows. Congress are to appoint as soon as any of the lands shall be sold, a govr, Council, Judges, secretary to the Council, & some other officers; the govr & Council to have certain powers untill they have a certain number of inhabitants, at wh they are to elect representatives to form a Genl Assembly, to consist of the Govr & Council & sd house of representatives. It is in effect to be a Colonial Govt similar to that wh prevail'd in these States previous to the revolution, with this remarkable & important difference that when such district shall contain the number of the least numerous of the "13. original States for the time being" they shall be admitted into the confederacy. The most important principles of the Act at Annapolis are you observe preserv'd in this report. It is generally approv'd of but has not yet been taken up. The treaty with Prussia will be shortly ratified & forwarded for exchange. Upon the subject of commerce I have nothing new to give you. The plan of a convention at Annapolis which I believe will be carried into effect, has taken the subject from before Congress. As it originated with our State,[1] we think it our duty to promote its object by all the means in

[1] The legislature of Virginia by a resolution of January 21, 1786, appointed Commissioners "to meet such Commissioners as may be appointed in the other States of the Union, at a time and place to be agreed on, to take into consideration the trade of the United States; to examine the relative situations and trade of said States; to consider how far a uniform system in their commercial regulations may be necessary to their common interest and their permanent harmony; and to report to the several States such an Act, relative to this great

our power. Of its success I must confess I have some hopes. The investigation of the subject will always be of advantage since truth & sound State policy in every instance will urge the commis^{n} of the power to U. States. You will be surpris'd to hear that I have form'd the most interesting connection in human life, with a young lady in this town, as you know my plan was to visit you before I settled myself. But having form'd an attachment to this young Lady (a Miss Kortright, the daughter of a gent^{n} of respectable character & connections in this State tho' injured in his fortunes by the late war) I have found that I must relinquish all other objects not connected with her. We were married ab^{t} three months since. I remain here untill the fall at w^{h} time we remove to Fredericksb^{g} in Virg^{a} where I shall settle for the present in a house prepar'd for me by Mr Jones to

object, as when unanimously ratified by them will enable the United States in Congress, effectually to provide for the same."

In response to this proposition, Commissioners from five States assembled at Annapolis on September 11th of that year. In view of the small number of States represented, the Commissioners present declined to take action on the subject, but they recommended that new Commissioners be appointed from all the States with enlarged powers, to meet at Philadelphia the second Monday in May 1787 —"to take into consideration the situation of the United States; to devise such further provisions as shall appear to them necessary to render the Constitution of the Federal Government adequate to the exigencies of the Union; and to report such an Act for that purpose, as, when agreed to by them, and afterwards confirmed by the Legislatures of every State, will effectually provide for the same."

This recommendation was acted upon favorably by all the States except Rhode Island. On May 14th, 1787, the day fixed for the meeting, only a minority of the Commissioners had reached Philadelphia, but on May 24th, the representatives of nine States being present, they organized what is known as "The Constitutional Convention," by the unanimous election of George Washington as President; and proceeded to frame the instrument subsequently adopted as The Constitution of the United States.

enter into the practice of the law. I intended to have made you a remittance by this packet to replace the money you have advanc'd for the Encyclopedia, but have been unable. I shall not neglect this. We were unfortunate in an imposition at Annapolis—but y^rs I hope ended there—mine has since been increas'd. A young Mr Grymes in the most imminent distress, prevail'd on me lately to be responsible for his payment of 50 £ Virg^a currency—he mov'd off & the payment fell on me. I have since made application to his father in Orange who I hear disowns him & will have nothing to say to his engagements. My friend Short will I hope pardon my not writing him at present—a variety of circumstances have interrupted me for a few days since, so as to put it out of my power. If the packet does not sail tonight I will. I observe that the King of France has issued an edict to encourage his own fisheries. I mention this more for the purpose of suggesting to you that the event has reach'd us circuitously—that this circumstance has been noted here—there are always some who deal in things of this kind and although it was no sooner suggested & that in private than an apology was made for the suggestion, yet I have thought proper to bring it to your view. Believe me most sincerely your friend & servant JA^s MONROE.

TO RICHARD HENRY LEE.

NEW YORK, May 24th, 1786.

DEAR SIR,—I have no excuse for having been so indifferent a correspondent, except that I had nothing to communicate to you, and I knew that of this you

were apprised by your brother, Colonel Lee. Lately however we have received despatches from Mr Adams, of a very interesting nature. He presented some time about November last, a memorial to the ministry, requiring a delivery of the posts, and compensation for the infraction of the treaty respecting the negroes; to which he received for answer, "that it was unquestionably true, that by the seventh article the posts should have been evacuated; but that by the fourth and ninth it was also stipulated that there should be no legal impediment in the way of recovery of British debts; that these articles had been violated by almost every state in the confederacy. Lord Carmarthen enumerates all the acts of the several states which militate against the treaty, with great precision, and finally states that it would be folly for one party to carry its engagements into effect, while the other neglected theirs; that provided the United States would comply on their part, the King would on his."

This I think is the amount of the despatch from Mr Adams, from which the injunction of secrecy is removed, so that you may be under no restraint in your communications on the subject. We shall state it to the Executive, for the information of the legislature.

We have lately been much perplexed by a proposition from Connecticut, for ceding her claims to territory westward one hundred & twenty miles of the Pennsylvania line, by which she retains a right, by implication, to one hundred & twenty miles. We have been informed that she and Pennsylvania are on

the point of variance with respect to Wioming, and that this land is necessary to satisfy the Susquehannah & Delaware companies of Connecticut, who create this mischief, whereby peace will be restored to the Union. We are also apprised that unless we accept this cession, Connecticut will open an office for the whole degree claimed by her to the Mississippi, for sale. A proposition has been made reserving to the United States whatever they have acquired under the cession of Virginia, and negatived; and one confirming the decree of Trenton, or rather requiring that Connecticut should cede her claim to Pennsylvania as therein decreed, met with the same fate; the latter as connected with the former, which being negatived, gave a more pointed implication in favor of Connecticut; there it now stands. To-day it will be taken up again, and I suppose it will be passed.

When shall we have the pleasure of seeing you here; you have in a great degree the friendship and good wishes of our family. Miss Kortright and Mrs. Monroe desire to be most affectionately remembered to you. I shall always be happy to hear from you, and am sincerely your friend & servant

JA^{s} MONROE.

TO JAMES MADISON.

NEW YORK, May 31, 1786.

DEAR SIR,—Since my last a letter has been rec^{d} from Mr. Jay to the following effect "that difficulties had taken place in his negotiation with Gardoqui & requesting that a Committee be appointed without

instructions to direct & controul the said negotiation."[1] It was immediately perceiv'd that the object was to relieve him from the instruction respecting the Mississippi & to get a Committee to cover the measure. That this wo.d be thus brought forward I was appriz'd upon my first arrival here in the Winter & have been acquainted with all the previous arrangements which those in favor of it found necessary to make to prepare for its reception. His plan is, from evidence conclusive on my own mind, not to be simply quiet as to that object but to enter into engagements, at least for a certain term, for its occlusion, & further to enter into a reciprocal guaranty of their respective possessions in America in consideration for which we are to be admitted reciprocally, they into our ports here & we into theirs in Europe, upon an equal footing with our citizens & subjects respectively. What we

[1] Secret Journal of Congress, Foreign Affairs, May 31, 1786.

"The following letter from the Secretary for foreign affairs read—

OFFICE OF FOREIGN AFFAIRS, May 29, 1786.

SIR—In my negotiations with M.r Gardoqui I experience certain difficulties, which, in my opinion, should be so managed as that even the existence of them should remain a secret for the present. I take the liberty therefore of submitting to the consideration of Congress, whether it might not be advisable to appoint a committee with power to instruct and direct me on every point and subject relative to the proposed treaty with Spain. In case Congress should think proper to appoint such a committee, I really think it would be prudent to keep the appointment of it secret, and to forbear having any conversation on subjects connected with it, except in Congress, and in meetings on the business of it. With great respect etc. JOHN JAY.

To His Excellency the President of Congress.

The above was referred to a committee of three, viz. M.r King, M.r Pettit and M.r Monroe, who on the 1.st August, reported that the letter be referred to a committee of the whole. Aug. 1, After debate an order passed for the Secretary for foreign affairs to attend Congress on Thursday next at 12 O'Clock on on the subject of his letter of 29.th May."

are to gain on our part then simply is, the aid of this power in favor of the ports & this commercial stipulation. When the letter was presented Mr King who is associated in this business, in a long speech in which he took a view of the insidious designs of France in the late treaty especially, & of the little dependence to be put in her in the future, made a tryal of ye pulse of the house on the subject. The letter was committed, Pettit, King & myself are of the committee—as yet the committee have not met, tomorrow they will. Jay will attend it. From the best investigation that I have been able to give the subject I am of opinion that it will be for the benefit of the U S. that the river shod be opened, that although we may not be in a situation nor even think of it for the present, to contest it, yet if we enter'd into engagements to the contrary, we separate those people,—I mean all those westd of the mountains,—from the federal Government & perhaps throw them into the hands eventually of a foreign power—that under the direction of Congress the produce of that country will be in trade ye source of great national wealth & strength to the U S. That a reciprocal guaranty stipulates an important consideration to them without a return. That whether it may not tend to weaken the connection between us & France is doubtful. That the commercl engagements will operate upon its own merits only to the disadvantage of the U.S. I remember upon a former occasion, unconnected with objects or considerations of this kind to have remark'd to you—After the publick debt is pd (& if the western land is properly dispos'd

of, great part of it will be p.d shortly) the situation of these States will be such as to make it unnecessary for them to lay such duties on the trade of their citizens as the expensive civil and military establishments of the European countries will require. The duties of our citizens & their subjects in our respective ports will of course be unequal, ours depress'd with the weight of their gov.t & theirs entitled to all the benefits which arise from our ease & happy situation. If we knew precisely the duties impos'd on our trade by our citizens in their ports we might put their subjects on equal footing here. The indulgence then given to our people in our ports arising from the ease of our circumstances, superior to that w.h the subjects of other countries can possibly obtain, wo.d be a manifest advantage which might enable them to improve their circumstances. Great Britain I am also informed, is to be excluded from the benefit (if it be term'd such) of this treaty. I am clearly of opinion that Spain is of all the powers of Europe the most in our hands. That for a guaranty we might obtain not only the points in contest but whatever else we wish'd, but such is the folly of our councils & the vice of those who govern them in many instances, that the real blessings of our situation in those few cases which exist, cannot be turn'd to any publick advantage. Pettit who is always here & the influencial man from Pa. is a speculator in certificates. He came forward under the patronage of Reed with impressions entirely Eastern and the opposition given the requisition last year by the delegation of V.a has given him an

opinion that she wishes to defraud the publick creditors. The evidence of her payments, of passing the requisition upon terms unfavorable to her, of her honest & federal attachments are no proof to him. He always acts under this impression & the utmost prudence, good temper (personally) and assurance on the part of the delegation cannot remove it. His state therefore can generally be calculated on in favor of all the measures of Massachusetts who is always zealous upon all subjects of old emission money, publick securities &c^e^ She always hath some influence with Del^re^ & Jersey; King hath married a woman of fortune in N. Y. so that if he secures a market for fish and turns the commerce of the Western country down this river he obtains his object.

We have not as yet brought on the claims of the state, we shall do it in a few days. I am thoroughly satisfied they will be rejected. All the expenses of Ld Dunmore's expedition although precisely on the same footing with the first campaign at Boston will be thrown on the State. Yet Mass: hath (& did in the close of that campaign) draw money to defray its expences. It appears to me as if the State debt wo.^d^ never be settled and if it is, upon terms highly disadvantageous to us—that the certificate debt will be press'd only untill by the operation of the facility system most of the securities are mov'd southw.^d^, after which it will be given up. We shall however bring the subject on shortly, and upon the fairest principles for the State, & in the event of a decision agn^st^ her put her pretensions on the journals. Many of these

questions you will observe are as important as they are intricate. That to a wise decision as to their expedience, the greatest industry & ability in their management will be necessary. I must confess I have little hope that they will take a direction agreeably to my own impressions of propriety. One great advantage is, that the delegations are in genl in sentiment, & act together—but there are such powerful combinations agnst us, supported by & founded in considerations of private interest, that I almost despair. What effect these measures may have, especially the instances of the British debt & our accts, upon the State, I cannot determine. Whether they may extend their influence to other objects than those they particularly affect, is incertain; fully persuaded however I am that they will give arguments to those oppos'd to an extension of federal powers of greater weight than any they have had before. I most sincerely wish you may come up and that if you shall not be able you will give me yr sentiments fully on these subjects. I am yr friend & servant,

Js Monroe.

TO THOMAS JEFFERSON.

N. York, June 16, 1786.

Dear Sir,—Since my last but little hath been done in Congress. We have had generally not more than 7. States present. The only time that 9. were, their time was employ'd upon the subject of the Connecticut cession, which ultimately was accepted; whereby she cedes all the land lying westwd of a line to be drawn

westw^d^ of the Pen^a^ line parallel with the same. Our State voted agnst it but were in sentiment for it. It is hop'd it will terminate the variance respecting the Wyoming settlement by enabling Connecticut to give the claimants other land in lieu & thereby establish the government of Pen^a^ in the benefit of the decree of Trenton. Other reasons there are which apply to the geographic position of the land & the influence that consideration may have on the councils of Connecticut. We voted ag^nst^ it under the sentiment, upon w^h^ our State hath always acted, of her right to the N^o^ West line from the Northern extremity of her charter limits—which we suppos'd sho^d^ be regarded, even after the right was given to the U. S., by the delegation.

What shall finally be done with Spain, respecting the Mississipi becomes an interesting question, and one press'd on us for a decision. Gardoqui has been long labouring for it's occlusion with Jay. For sometime I have been perfectly satisfied the latter required no arguments to bring him into the same sentiment. The proposition is that it be shut for thirty years, in consideration for which Spain will admit us into her ports upon a footing with her own subjects, we reciprocating. This you may recollect was rejected at Annapolis upon its own merits only. It is however magnified here as a great advantage & equivalent to the consideration requir'd. We are also threatened with the project of a treaty between Spain (in case this fails) and Britain. Yet I cannot comprehend upon what principle it can take effect. Jay stated

difficulties in the management of this business with the Minister & propos'd, without bringing any of these circumstances to view, that a committee be appointed with power to controul all circumstances respecting the treaty with a view of evading his instructions[1] & concluding the treaty before they were known—but as they were known to some who had marked the progress of the business each proposition was discuss'd on its own particular merits in the first instance. A committee was appointed to report. Jay attended it. Of this I was a member. To us he co^{d} make no communication we did not already know —so that the plan fail'd in not carrying a committee in the first instance for the purpose. This was a fortnight past & as yet we have made no report. I have given circumstantially the state of this business as it has appear'd to me, not on evidence absolutely presumptive only. I intended to have wrote you more fully but am just advis'd the packet will sail immediately. With my sincerest wishes for y^{r} health & happiness I am dear Sir y^{r} friend & servant

JA^{s} MONROE.

Pray apologize for me to Short. Tell him I will write a letter which shall have retrospect to what I sho^{d} have s^{d} in this & shall include also whatever shall intervene.

[1] Congress, on the 25th Aug., 1785, on the report of a Committee of which Monroe was chairman, had instructed the Secretary, in treating with Spain, "particularly to stipulate the right of the United States to their territorial bounds, and the free navigation of the Mississippi from the source to the ocean, as established in their treaties with Great Britain; and that he neither conclude nor sign any treaty, compact or convention, with the said encargardo de negocios until he hath previously communicated it to Congress, and received their approbation."

TO JAMES MADISON.

NEW YORK, July 15, 1786.

DEAR SIR,—I had the pleasure to receive yours from Phil[a] yesterday but so late that I co[d] not answer it sooner. I hope you have before this recover'd from y[r] fatigue, indeed I advise your prosecution of y[r] journey here as soon as possible as the preferable place for that purpose. I sho[d] be happy you co[d] give us as much of y[r] time as possible here for reasons more self interested. Of these we shall confer when we meet. I beg of you to make the payment for my advances to Taylor entirely convenient to yourself—I shall and believe with tolerable convenience wait the time you mention—indeed it will produce no inconvenience. The am[t] of land purchas'd of Taylor was 900—acres at 1 & ½ dol[rs] p[r] acre. For half of this I have already paid & have his rec[t] being for 675. dol[rs]—½ of this you owe me. The balance is to be paid to Taylor some time in next May. I have no doubt of the preference in favor of lands on the Mohawk to those of the same price at present, in any part of the Confederacy—as being equally fertile and more secure in all the other circumstances which can appreciate the value of land—but upon this will also confer when we meet. We have 12. States on the floor & yet do little or nothing. I postpone however troubling you with anything of a publick nature at present as you have not perhaps y[r] cypher with you & I expect so shortly to see you. I doubt whether it will be possible for me to accompany you in the trip up the river. Grayson is ill of the gout. Carrington

much indispos'd & the most important business still undecided on or otherwise dispos'd of. Believe me, y^r affec^t friend & servant.

JA^s MONROE.

TO THOMAS JEFFERSON.

NEW YORK, July 16th, 1786.

DEAR SIR,—I have not heard from you for several months past, the last being dated some time previous to your removal to London. Not knowing you wo^d have staid so long I have wrote you by every packet to France. We have now present 12 States & hope this will be the case for some time. Soon after my arrival here in the winter I suggested to you my apprehensions that the condition of the Act of Cession from Virg^a which respected the extent of the states to be erected over the ceded territory was an impolitick one & that it might be proper to recommend it to the State to alter it. A proposition to this effect was submitted to Congress which ultimately pass'd advising that it be vested in Congress to divide the s^d territory into not less than 3. nor more than 5 States—but the investigation of the subject has open'd the eyes of a part of the Union so as to enable them to view the subject in a different light from what they have heretofore done. They have therefore manifested a desire to rescind every thing they have heretofore done in it, particularly to increase the number of the Inhabitants which sho^d entitle such States to admission into the Confederacy & to make it depend on their having one 13th part of the free inhabitants of the U. S.

This with some other instructions they wish to impose on them evinces plainly the policy of these men to be to keep them out of the Confederacy altogether. I consider this as a dangerous & very mischievous kind of policy & calculated to throw them into the arms of Great Britain. I know not with certainty whether they will be able to carry this point but if it is press'd & a probability of being carried, we shall object to the powers of the U S. to determine the numbers without the consent of the State. It having been left open in the Act, does by no means put it in the power of the U. S. to make such restrictions on this head as to defeat the condition altogether. If they do not therefore agree with the delegates to leave it upon the ground of April 23^{d} 1784. We shall propose a subsequent convention between the parties as to that point, & deny the right of the U. S. to act otherwise in it. In my last I advised you of an intrigue on foot under the management of Jay to occlude the Mississippi supported by the delegation of Massachusets. Since my last no further measures have been openly taken in the business, yet it is not relinquish'd. As yet there hath not been a fair tryal of the sense of Congress on the subject. I have a conviction in my own mind that Jay has manag'd this negociation dishonestly. On the other hand I am persuaded that the minister here has no power on the subject—yet I am firmly persuaded that he has conducted himself in such manner in this business as to give him & his court hopes which the sense of Congress nor his instructions authorise. Having been on altogether foreign business lately, indeed since you left us, I have

had an opportunity of knowing him well, & this communication is founded in circumstances this opportunity hath given me. The Massach. delegates except the president, whose talents & merits have been greatly overated (tho' preferable greatly in the latter instance to his brethern) are without exception the most illiberal I have ever seen from that State. Two of these men whose names are Dana and King are elected for the next year which is my motive for making known to you this circumstance. It may possibly be of some service to you, as I shall leave Congress, to possess information of this kind. The former is I believe honest but the principles of the latter I doubt. It has been propos'd & supported by our State to have a Colonial gov^{t} establish'd over the western districts & to cease at the time they shall be admitted into the Confederacy; we are fully persuaded it will be beneficial to the settlers & to the U. S. & especially those to whose frontiers such establishment form'd an immediate barrier—this hath not been decided on & hath only been postpon'd in consequence of the inordinate schemes of some men above alluded to as to the whole policy of the aff^{rs} of that country. I am not aware of anything else that I can give you new. In October I shall leave this for Virg^{a} & shall settle in Fredericksburg for the purpose of commencing the practice of the law. I hope by this you have reach'd Paris ag^{a} & at home—that you have been well pleas'd with your trip—Mr Madison writes me to-day he is at Philadelphia & intends in a few days a visit here.

I am Dear Sir y^{r} affectionate friend & servant,

Ja^{s} Monroe.

TO JAMES MADISON.

NEW YORK, Augt 10, 1786.

DEAR SIR,—We went into a Committee of the whole yesterday—the subject [the treaty with Spain] was discuss'd fully, by Pinckney & others & the house ultimately came to the resolution & reporting that we sit ag^n. Today being the order for the report of the Committee *in part* upon subject of the impost in its relation to Pen^a & New York, the order above alluded to of going into Committee was postpon'd to take up the s^d report. I consider this by no means as evidence, that the majority are ag'nst Jays propositions. On the contrary we have satisfactory documents to believe that 7. States are for it. It depends therefore whether it shall be absolutely defeated (w^h will be the case provided they have but six States) upon the arrival of Wilson & St Clair & their being in sentiment agns^t Jay. If this shall be the case, may you not discover it in conversation & send them up?[1] It was mov'd, as we expected, to repeal the ultimatum in his instructions. I hope you have arriv'd in good health. Remember me particularly to Mr^s Triste & Mr^s House—tell them we shall stay a day or two on our passage thro' Phil^a with them. I am y^r aff^te fri^d & serv^t

JA^s MONROE.

[1] James Wilson and Arthur St. Clair were two of the delegates of Pennsylvania. Madison was at this time visiting Philadelphia.

TO GOVERNOR PATRICK HENRY.[1]

NEW YORK, Augt. 12, 1786.

DEAR SIR,—I have wished to communicate for sometime since to you an account of a transaction here, for your sentiments respecting it, but have declined from the want of a cypher, that of the delegation being we fear lost. The affr. however has come to such a crisis and is of such high importance to the U. S. & ours in particular, that I shall risque the communication without that cover. Jay, you know, is intrusted with the negotiation with the Sp^{n} resident here for the free navigation of the Mississippi & the boundaries between Georgia and the Floridas; his instructions, altho' they authorize by implication the formation of a treaty of commerce, confine him expressly with respect to those points, & prohibit his entering into any engagement whatever wh. shall not stipulate them in our favor. Upon my arrival here in Decr last (having been previously well acquainted with Mr. Jay) in conversation with him I found he had agreed with Gardoqui to postpone the subject of the Mississippi &c, in the first instance & to take up that of a commerc^{l} treaty; that in this they had gone so far as that Mr. Jay was possessed of the principles on wh. he wo^{d} agree to make it, upon condition on our part, of a forbearance of the use of the Mississippi for 25 or 30 years. I soon found in short that Mr. Jay was desirous of occluding the Mississippi and of making what he term'd advantageous terms in the treaty of commerce the means of effecting it. Whether he sup-

[1] From the original presented to the National Archives by the Honorable William Wirt Henry.

pos'd I was of his opinion or not, or was endeavoring to prevail on me to be so, I cannot tell, but as I expressed no sentiment on the subject he went further & obser'd "that if the affr. was brought to the view of Congress they wo^{d} most probably disagree to it, or if they sho^{d} approve the project, conduct themselves so indiscreetly as to suffer it to become known to the French & Engl^{h} residents here & thus defeat it. To avoid this he said it occurr'd to him expedient to propose to Congress that a Committee be appointed to controul him in the negotiation, to stand to him in the room of Congress & he to negotiate under the Committee." I then reminded him of the instructions from our State respecting the Mississippi to the delegation & of the impossibility of their concurring in any measures of the kind. Our communication on this subject ended from that time. Upon the arrival of Colo. Grayson I communicated to him all these circumstances, with my opinion on them. From that time, and I had reason to believe he had begun even before my arrival, we have known of his intriguing with the members to carry the point. On 27. of May he addressed a letter to Congress precisely in the sentiment above, stating difficulties in the negotiations & proposing that "a Committee be appointed with full power to *direct* & *instruct* him on every point relative to the proposed treaty with Spain." As we knew the object was to extricate himself from the instructions respecting the Mississippi we of course opposed it. We found he had engaged the eastern states in the intrigue, especially Mass^{s}; that New York, Jersey &

Pen^{a} were in favor of it & either absolutely decided or so much so as to promise little prospect of change. The Committee propos'd by the Secretary was admitted generally to be without the powers of Congress. Since 9 states only can give an instruction for the formation of a treaty, to appoint a Committee with the power of 9 states was agreed to be a subversion of the govt. & therefore improper. The letter however was referr'd to a Committee who ultimately agreed to report that the Committee be discharged & the subject referred to a Committee of the whole & the Secr^{y} ordered to attend. He did so and come forward fully with the plan of a commerc^{l} treaty condition'd with the forbearance of the use of the Mississippi for 25 or 30 years, with a long written speech or report in favor of it. The project is in a few words this "1 That the merch^{ts} of America & Sp^{n} shall enjoy, the former in the ports of Sp^{n} & the Canaries, the latter in those of the U. S. the rights of native merch^{ts} reciprocally. 2. That the same tonnage shall be paid on the ships of the two parties in the carriage of the productions & the manufactures of the 2 countries. 3. That the *bona fide* manufactures & productions of the United States (tobacco only excepted which shall continue under its present regulations) may be imported in American or Spanish vessels into any of his majesty's ports aforesaid in like manner as if they were the productions of *Spain*. And on the other hand that the *bona fide* manufactures & productions of his majesty's Dominions may be imported into the U. S. in Sp^{n} or American vessels in like manner as if they

were those of the said States, and further that all such duties and imposts as may *mutually* be thought necessary to lay on them *by either party*, shall be ascertained & regulated on principles of exact reciprocity by a tariff to be form'd by a convention for the purpose, to be negotiated & made within *one year* after the exchange of the ratification of this treaty and in the meantime that they shall severally pay in the ports of each other the duties of natives only. 4. Masts & timber shall be bought here for the royal navy, provided that upon their carriage to Spain they shall cost no more than if they were bought elsewhere. 5. That in consideration of these advantages to the U. S. they agree to forbear the use of the Mississippi for 25 or 30 years, the term for wh. the treaty shall last." This treaty independent of the sacrifice, I consider as a very disadvantageous one & such as we should not accept, since it in reality gains us nothing & subjects to very high restrictions, such as exist in none of our other treaties, altho' they are in effect bad enough. But they are to be justified especially those of France & Holland in the motives which led to them, to bring those powers into the war. The subject was referred to a Committee of the whole on Thursday last who after debate rose & reported that they have come to no decision and require leave to sit again. The delegation of Mass. moved in committee that the ultimatum in his instructions respecting the Mississippi be repealed, in which event he would have unlimited powers to act at pleasure. This they said might be carried by 7 states. We observed that without the

ultimatum the instruction would be a new one, and of course 9 states necessary to it. The subject will again be taken up in a few days. It appears manifest they have 7 states & we 5, Maryland inclusive, with the southern states. Delaware is absent. It also appears that they will go on under 7 states in the business & risque the preservation of the confederacy on it. We have & shall throw every possible obstacle in the way of the measure, protest against the right of 7 either to instruct or ratify, give information of this to Mr. Jay & the Sp^{n} resident so that neither may be deceived in the business. This is one of the most extraordinary transactions I have ever known, a minister negotiating expressly for the purpose of defeating the object of his instructions, and by a long train of intrigue & management seducing the representatives of the states to concur in it. It is possible some, or perhaps one, (in which case it will be even) member may change his sentiments, but as he risqued his reputation upon carrying it, it is to be presumed he had engaged them too firmly in the business to have a possibility of their forsaking him. This however is not the only subject of consequence I have to engage your attention to. Certain it is that committees are held in this town of Eastern men and others of this State upon the subject of a dismemberment of the States east of the Hudson from the Union & the erection of them into a separate govt. To what lengths they have gone I know not, but have assurances as to the truth of the above position, with this addition to it that the measure is talked of in Mass: familiarly, & is supposed to

have originated there. The plan of the govt in all its modifications has even been contemplated by them. I am persuaded these people who are in Congress from that State (at the head of the other business) mean that as a step toward the carriage of this, as it will so displease some of them as to prepare the States for this event.

I am thoroughly persuaded the govt. is practicable & with a few alterations the best that can be devised. To manage our affairs to advantage under it & remedy these defects, in my opinion, nothing is wanting but common sense & common honesty, in both of which necessary qualifications we are, it is to be lamented, very defective. I wish much your sentiments upon these important subjects. You will necessarily consider this as under an injunction of secrecy & confide with none in whom the most perfect confidence may not be reposed. If any benefit may result from it I should have no objection to your presenting it to the view of Council—of this you will judge—clearly I am of opinion it will be held connected with other objects—& perhaps with that upon which the convention will sit at Annapolis. On the part of the Delegation we can give you similar information except as to what passed between Mr. Jay & myself—will it be necessary? Of one point I have a perfect conviction & upon this the rest of the Delegation will perhaps not write you so freely as myself, which is this, that the Legislature should be convened at a time sufficiently early to elect members to take their seats precisely on the day that those of the present Delegation expire—

affairs are in too critical a situation for the State to be unrepresented a day—eminent disadvantage may result from it—they did from this circumstance during the last year. Let me hear from you upon these subjects as soon as possible & believe me with great respect & esteem your friend & servant

Ja.s Monroe.

P. S. The object in the occlusion of the Mississippi on the part of these people so far as it is extended to the interest of their States (for those of a private kind gave birth to it) is to break up so far as this will do it, the settlements on the western waters, prevent any in future, and thereby keep the States southward as they now are—or if settlements will take place, that they shall be on such principles as to make it the interest of the people to separate from the Confederacy, so as effectually to exclude any new State from it. To throw the weight of population eastward & keep it there, to appreciate the vacand lands of New York & Massachusetts. In short, it is a system of policy which has for its object the keeping the weight of govt & population in this quarter, & is prepared by a set of men so flagitious, unprincipled & determined in their pursuits, as to satisfy me beyond a doubt they have extended their views to the dismemberment of the govt & resolved either, that sooner than fail it shall be the case, or being only desirous of that event have adopted this as the necessary means of effecting it. In conversations at which I have been present, the Eastern people talk of a dismemberment

so as to include Pena. (in favor of which I believe the present delegation Petit & Bayard who are under the influence of eastern politicks would be) & sometimes all the states south to the Potomack—Altho a dismemberment should be avoided by all the states and the conduct of wise & temperate men should have in view to prevent it, yet I do consider it as necessary on our part to contemplate it as an event which may possibly happen & for which we should be guarded—a dismemberment which would throw too much strength into the Eastern Division should be prevented. It should be so managed, (if it takes place) either that it should be formed into three divisions, or if into two, that Pen[a]. if not Jersey should be included in ours. Be assur'd as to all the subjects upon which I have given you information above, it hath been founded on authentic documents. I trust these intrigues are confined to a few only, but by these men I am assured are not; whatever anxiety they may give you I am persuaded it cannot be greater than that which I have felt. J. M.[1]

TO JAMES MADISON.

NEW YORK, Aug[t]. 14, 1786.

DEAR SIR,—It has occurr'd to G.[2] & myself to propose to Congress that negotiations be carried on with Sp[n]. upon the following principles 1. That exports be

[1] "Upon the receipt of this letter Mr. Henry, appreciating the danger of the situation, exerted himself to defeat the proposed treaty, in so far as it provided for the relinquishment of the Mississippi."—WM. WIRT HENRY. Cf. his *Life, Correspondence and Speeches of Patrick Henry.* [2] Grayson.

admitted thro' the Mississippi to some free port—perhaps N. Orleans, to pay there a toll to Sp^n^ of ab^t^ 3. p^r^ cent^m^ ad valorem & to be carried thence under the regulations of Congress. 2. That imports shall pass into the western country thro. the ports of the U. S. only. 3. That this sacrifice be given up to obtain in other respects a beneficial treaty. I beg of you to give me y^r^ opinion on it. It is manifest here that Jay & his party in Congress are determin'd to pursue this business as far as possible, either as the means of throwing the western people & territory without the gov^t^ of the U. S. and keeping the weight of population & gov^t^ here, or of dismembering the gov^t^ itself, for the purpose of a separate Confederacy. There can be no other object than one of these, & I am from such evidence as I have, doubtful which hath the influence. I write in Congress & therefore am deprived of the advantage of the cypher, but am so desirous of y^r^ sentiments as to risque mine without that cover.[1]

Sincerely etc.

JA^s^ MONROE.

[1] Madison replied, August 17th, from Philadelphia:

"I have your favor of the 14th inst. The expedient of which you ask my opinion has rec^d^ as it demanded all the consideration which the time & other circumstances would allow me to give. I think that in the present state of things such an arrangement would be beneficial & even pleasing to those most concerned in it; and yet I doubt extremely the policy of your proposing it to Cong^s^ The objections which occur to me are—1. That if the temper & views of Cong^s^ be such as you apprehend, it is morally certain they w^d^ not enter into the accommodation. Nothing therefore w^d^ be gained & you w^d^ have to combat under the disadvantage of having forsaken your first ground. 2. If Cong^s^ sh^d^ adopt your expedient as a ground of negotiation with G. [Gardoqui] & the views of S. [Spain] be such as they must be apprehended to be, it is still

TO THOMAS JEFFERSON.

NEW YORK, Augt 19, 1786.

DEAR SIR,—My last advis'd you of the progress of Spanish negociation until that time; the reference of Jay's letter to a committee was I believe the point at w^h it rested; but to enable you to form a satisfactory opinion of the object of that letter I transcribe the only operative paragraph in it—"I take the liberty therefore of submitting to the consideration of Congress whether it might not be advisable to appoint a committee with power to instruct and direct me on every point and subject relative to the proposed treaty with Spain." You are to observe his only ultimata were respecting the Mississippi and the boundarys; the committee consisting of a member[1] from Massachusetts, Pettit & myself kept it about two months and at length two of them reported—that they be discharged, the letter referred to a committee of the whole, and Jay himself ordered to attend. It was agreed to with this alteration that he attend Congress to explain the diffi-

more certain that it w^d be rejected on that side, especially under the flattering hopes which the spirit of concession in Cong^s must have raised. In this event the patrons of the measure now before Cong^s w^d return to it with greater eagerness, and with fresh argum^ts drawn from the impossibility of making better terms, & from the relaxation into which their opponents will have been betrayed. It is even possible that a foresight of this event might induce a politic concurrence in the experim^t Your knowledge of all circumstances will make you a better judge of the solidity or fallacy of these reflections than I can be. I do not extend them because it w^d be superfluous, as well as because it might lead to details which could not prudently be committed to the mail without the guard of a cypher."

Notwithstanding Madison's advice the proposed plan was submitted by the Virginia delegates, and rejected, as he had predicted, August 29, 1786.

[1] Rufus King.

culties stated in his letter & to lay before them a state of the negociation. He accordingly came, and, being aware objections would be made to his entering into debate, produced a long written speech[1] which he read in virtue of his office, and which was in substance as follows. France opposed our right to the navigation of the Mississippi and in case of a variance with Spain upon that point would be against us. It would be well to be on good terms with Spain therefore on that acc: as well as to avail ourselves of her influence in the councils of Portugal, the Italian States & the Barbary powers, also those of France herself. That Great Britain would rejoice to see us at variance with Spain, and therefore wo: foment dissensions between us—that in case this treaty failed, Spain mortified and disappointed in the eyes of all Europe, wo: enter into engagements with Britain (or in resentment) so as to exclude us from her ports. For these reasons and fully to obtain the confidence & good wishes of that power, as also her good services in the lines aforesaid he thought it wise to forbear the use of the navigation of the Mississippi twenty five years or thirty if necessary, as a condition to obtain at the same time the following liberal articles as the basis of a commercial treaty. 1. All commercial regulations shall be reciprocal, Spanish merchants in the ports of America and American merchants in those of Spain & the Canaries to have the rights of native merchants of the two countries. 2. To establish Consuls in their re-

[1] Secret Journal of Congress—Foreign Affairs—Aug. 3, 1786.

spective countries. 3. The bona fide manufactures & productions of both parties, tobacco excepted, to be admitted into the ports aforesaid in the vessels of both parties upon the same footing as if they were their own manufactures & productions—and further that all such duties & imposts as may mutually be thought necessary to lay on them by either party shall be regulated on principles of exact reciprocity by a tariff to be formed within one year from the ratification of the treaty, and in the mean time they shall severally pay in the ports of each other those of natives only. 4. Masts & timber for the navy to be bought, provided they be as cheap as in other countries. This was the am[t] of his communications as to the project which he urged our adopting by all the arguments he could think of—such as we cannot obtain the use [of the Mississippi] and therefore it is of no consequence—we must now decide—it must terminate in accommodation, war or disgrace, the last the worst, the second we are unprepared for, the first the preferable course—that we sho[d] avail ourselves of the moment or Britain would—therefore no time to lose—with others of the same kind. This subject hath since the above communication engaged the attention of Congress ten days past. The delegates of Massachusetts, who are his instruments on the floor, moved in committee to repeal his ultimata with the view of suffering him to proceed at pleasure, and upon this point hath the debate turned. It hath been manifest they have had throughout seven States and we five—they to Penn[a] inclusive, and Delaware being absent—the rest

against them. We deny the right of seven States to alter an instruction so as to make it a new one, but they will proceed be that as it may, the treaty in that event to be formed and presented for ratification. To prevent this we have told them we would give notice to the Secretary of the incompetency of his powers as also to the Resident of Spain, to justify Congress in refusing to ratify if they should chuse it. In this state it remained, without any new proposition until yesterday, being Friday. We stated however in the close of the day that we would agree that a treaty be formed upon the following conditions—that exports be admitted thro' the Mississippi paying at New Orleans, as a duty, two and a half per cent. ad valorem to Spain, to be carried thence in Spanish, American or French bottoms—that imports be prohibited in that line. If this sho^{d} be adopted we propose to change the scene of negociation & to carry it to Madrid, to take it out of the present & put into your & Adams's hands. We fear however & with too much reason that this will fail. Nothing could have been more unfortunate than even the agitation of this subject. It has lessened the ground on which we stood & given Spain hopes she had no reason to calculate on. What prospects to the general interest might be calculated on as resulting from deliberations of the Convention at Annapolis must be diminished. In short the measure strikes me as every way highly injudicious. I am sorry to inform you that our affairs are daily falling into a worse situation, arising more from the intrigues of designing men than any real defect in our system or distress of

our affairs. The same party who advocate this business have certainly held in this city Committees for dismembering the Confederacy, and throwing the States eastward the Hudson into one government. As yet this business hath not gone far, but that there sho.d be a party in its favor & a man heretofore so well respected, but in my opinion so little known, engaged in it, is to me very alarming.[1]

Congress have again requir'd money for the ensueing year, including that part of the principal of the foreign loans that comes due in that time. All the States except New York & Pen.a have acceded to the impost to the acceptation of Congress, the former hath granted the revenue accruing from it but hath not made the collectors so amenable to Congress as the system requires and the other States have done, & Pen.a hath granted the impost but suspends its operation until all the States shall have granted the supplemental funds. A committee is appointed to attend the legislature of Pen.a on this subject, & recommendation passed to the Executive of New York to convene the legislature to take the s.d system again into consideration—they meet in the usual term in the fall or commencement of the winter. They have pass'd an ordinance regulating the coin. I have been appriz.d of the arrival of the Encyclopedia at Baltimore, upon the cover of a letter address'd from M.r Mazzei, forwarded thence here, but have not heard in whose ship or under whose care it is except from your

[1] In cipher to this point.

letters. I have since my last rec^d^ yours of the 10. of May—your late communications on the commerc^l^ subject have given great satisfaction to Congress. We hope the monopoly of our tob^o^ in hands of the farmers-gen^l^ will ultimately be abolished. The services of Mon^r^ La Fayette are acknowledged & with gratitude by Congress.

I shall leave this abt. the first of Octr for Virginia, Fredericksburg. Believe me I have not relinquished the prospect of being your neighbour. The house for which I have requested a plan may possibly be erected near Monticello—to fix there & to have yourself in particular, with what friends we may collect around, for society is my chief object, or rather the only one which promises to me, with the connection I have formed, real & substantial pleasure, if indeed by the name of pleasure it may be called. I inclose you some letters for yourself & Miss Patsy to whom be so kind as make my best respects. I am, dear sir, very affectionately y^r^ friend & servant JA^s^ MONROE.

TO JAMES MADISON.

NEW YORK, Augt 30, 1786.

DEAR SIR,—Since my last we have been from day to day upon the business w^h^ engag'd us when you were here. They carried the repeal by 7. states in the Committee of the whole & afterwards in the house. We mov'd to postpone to take into consideration the plan in conformity with the Idea I suggested to you, in which we enter'd into long reasoning

upon the Secr^{y}.^{s} project, proving if we were well founded, its futility, & disadvantages in many instances, proposing to take the negotiation out of his hands, as to the Mississippi & the boundaries, commit them to our chargé at Madrid, to agree on principles there, the treaty to be concluded here. That 2 Com^{rs} be added to him to enter into the treaty & the three authoriz'd to form also a commerc^{l} treaty, to be incorporated together, for w^{h} five States voted. Their repeal was afterwards carried by 7. States only —today—additional instructions being added to their propositions for repeal, respecting the boundaries, form'd with view of taking in Georgia, were also only carried by 7. States. The president reported today the chair upon the propositions altogether that the question was lost. So that it now remains, will Mr Jay proceed? & I apprehend he will not. I have avail'd myself of a few moments to drop you this & to assure you of my friendship & esteem.

JA^{s} MONROE.

TO JAMES MADISON.

NEW YORK, Sepr 1, 1786.

DEAR SIR,—Some time since I was appointed of the Committee to attend the Pen^{a} Assembly, contrary to my wishes, & not being able to extricate myself (having apologiz'd in the first instance upon Mrs Monroe's indisposition which was not admitted in expectation of her better health) am now under the necessity of attending. The question was not as I suppos'd taken upon the whole report of the Commit-

tee of the whole—but upon the subsequent instruction as to the boundaries only. The President stated it from the chair to be upon the whole, but the next day qualified it as meaning the whole then before the house, the other part being (as to the repeal) decided the day before. We suppos'd the question, having been taken upon the several amendments, had been, as stated above, afterwards taken on the whole. It is enter'd in the journals as carried in the affirmative as to the repeal—a motion was made is the question carried? & laid aside by the previous question. It has since been made an order that we shall not move in form or substance any proposition which has been set aside by the previous question, unless the same number of States are present. The State of R Island, being ab^{t} to leave the floor which their delegation accordingly did immediately. I shall set out for Phil^{a} on Monday next. Will you be there on my arrival? Sincerely y^{rs}

Ja^{s} Monroe.

TO JAMES MADISON.

New York, Sepr 3, 1786.

Dear Sir,—In my last I advis'd you of the point to w^{h} seven States had brought the business. After repealing the instruction in part, entering the repeal affirmatively, setting aside a motion requiring the sense of Congress whether the repeal was valid so as to give a new instruction by 7. States, by the previous question, & passing an order to prevent our moving it again untill they sho^{d} have the same number of

States on the floor, on their part the thing was complete. I inform'd you also of our propositions & the number of States for them—it was on Friday last that they clos'd the business. It has been propos'd by some of the gent^n^ on ours to notify Mr Jay of the opinion of the 5. states but I think we shall not do this. He is possess'd of course of our sentiments in the official way; to communicate them otherwise than thro the journals might have an intemperate & factious appearance. We have as yet done nothing but under the Constitution & almost in all cases ye rules of the house, nor shall we, I apprehend. Some gent^n^ on their side hinted their determination to withdraw if the question sho^d^ be brought on as to the validity of the repeal. Whether we shall take any other steps is undecided. I doubt the propriety of so doing further than moving for permission to transmit copies of the journals to the States for their information & to obt^n^ instructions to their delegations. I sho^d^ suppose the Secry. wo^d^ not proceed untill he finds himself supported by the States to whom the 7. delegations belong. Upon Jersey & Pen^a^ then it rests. To engage their leading men is now the object. Most probably he has already consulted them but his consultations & those of his party I doubt not have been founded on partial representations. To remove their impression a view of the journals may be necessary. I consider the party especially Jay & the principal advocates as having gone too far to retreat. They must either carry the measure or be disgraced (as the principal

already hath been by the vote of 5. States), & sooner than suffer this they will labour to break the Union. I therefore suspect they have been already (and indeed have too much reason for my suspicions) intriguing with the principal men in these States to effect that end in the last resort. They have even sought a dismembermt to the Potomack & those of the party here have been sounding those in office thus far. To defeat the measure therefore completely we must follow their movements & counteract them every where, advise the leading men of their designs, the purposes they are meant to serve &c and in event of the worst extremity prepare them for an union with the Southern States. I fear some of those in Penª will have a contrary affection. But it must be remov'd if possible. A knowledge that she was on our side wod blow this whole intrigue in the air. To bring this abt therefore is an important object to the Southern interest. If a dismembermt. takes place that State must not be added to the eastern scale. It were as well to use force to prevent it as to defend ourselves afterwards. I consider the convention of Annapolis as a most important era in our affrs The Eastern men be assur'd mean it as leading further than the object originally comprehended. If they do not obtain that things shall be arrang'd to suit them in every respect, their intrigues will extend to the objects I have suggested above. Penª is their object. Upon succeeding or failing with her will they gain or lose confidence. I doubt not the emissaries of foreign countries will be on the

ground. In short I do consider this convention as requiring your utmost exertions, in the change things will infallibly take, as well to obtain good as to prevent mischief. Mr. Randolph will I hope devote himself to the publick upon this occasion & not suffer himself to be taken off by his professional pursuits before the convention dissolves. I write you freely without the cover of a cypher knowing you have not yours with you. Indeed I fear nothing to the publick or myself from a publication, for I am satisfied if the publick were acquainted with the conduct of these unworthy servants their consequence wo^d^ be of but short duration. Prevail I beg of you on Colo. Mason to attend the Convention. It will give him data to act on afterwards in the State.

Very sincerely I am yr friend & serv^t^

JA^s^ MONROE.

I have always considered the regulation of trade in the hands of the U. S. as necessary to preserve the Union. Without it, it will infallibly tumble to pieces. But I earnestly wish the admission of a few additional States into the Confederacy in the Southern scale.

TO JAMES MADISON.

PHIL^A^, Sepr 12, 1786.

DEAR SIR,—I arriv'd here a few days since to press on the legislature of this State a separation of the impost from the supplem^l^ funds. I have the most satisfactory evidence they will reject the proposition. We

proceed therefore further merely to discharge our duty—both parties are united in opposition to it. Tomorrow we shall be rec^d by the legislature. I am sorry I came on the business—Before this you have rec^d my letters informing of the subsequent progress & final close of the business which lately engag'd us in Congress; or rather so far as it depended on their direction. By agreement nothing was to be done in it untill our return. I expect to sit out back in a day or two. It will depend much on the opinion of Jersey & Pen^a as to the movements of Jay—and that of Jersey much on that of Mr Clark now with you at Annapolis. He put Hornblower in Congress & may turn him out agn, for he has no positive weight of his own. Clark has always been anxious for taking the western lands from us. I sho^d suppose him inclin'd to turn it to the best acc^t I conclude therefore that if he knows the delegation, especially his part of it, pursue a system of policy so contrary to his own, & to what is in effect the interest of his country, he wo^d dismiss Mr Hornblower—Perhaps you may be able to hint to Mr Clark that Jersey except Symes was with the eastern States upon this occasion. McHenry of the Maryl^d delegation has referr'd Mr Stone to you for information upon this subject by my request. Mr Stone[1] is my friend and a very upright sensible man. You will show him what part of my letters you find necessary. The ablest men here believe & act on it, in the rejection of the proposition, that the refusal to separate the 2. parts

[1] Thomas Stone. He had served in Congress, as a delegate from Maryland, in 1784.

of the system[1] endangers the govt—and that it will most probably induce a change of some kind or other. It is well for the Southern States to act with great circumspection & to be prepar'd for every possible event—to stand well with the Middle States especially—I sincerely wish you to suffer no anxiety, and to put yourself to no inconvenience upon our private affair—I have no occasion for the money untill ab. the 5. or 10th of Octr to help to remove me to Virga and even then it will be in my power to do without it, with tolerable convenience, if you shod find it inconvenient to command it. Believe me it will put me to no inconvenience. My engagements are but few & those within my controul—Let me hear from you as often as possible—Remember me to Colo Tucker & his lady, to the rest of yr colleagues & to Mr. Stone & believe me, sincerely yr friend & servant,

JAs MONROE.

Colo. Grayson[2] came with me in the interval to relax from business & meet his lady here. She is with

[1] Impost and Supplementary funds.

[2] Col. William Grayson had served in the Revolution. He was at the battles of Long Island, White Plains, Brandywine, and Germantown, and commanded the advance guard at Monmouth. He was a delegate to the Continental Congress for three years, 1784–7. In 1788, as a member of the Virginia Convention, he was one of the ablest supporters of Patrick Henry in opposition to the unconditional ratification of the Constitution. After its adoption Richard Henry Lee, who had also opposed it, and Grayson were nominated by Henry, and elected by the legislature, as the first Senators from Virginia under that instrument, over James Madison, who was also a candidate—Lee receiving 98 votes, Grayson 86, and Madison 77. Col. Grayson took his seat in the Senate, May 21, 1789, but the disease which afflicted him at the date of the above letter became chronic, and he died of the gout, at Dumfries, Va., March 12, 1790, while on his way to Congress.

him—but unfortunately he is afflicted with an extr^y disease—the physicians differ in the name—he is often delirious—is afflicted with strange fancies & apprehensions, in the morning he is better than in the latter end of the day & night, at w^h time his infirmity rages. It is supposed by some to be the floating gout. Shippen calls it a bilious affection of the nerves. The very close attention he hath paid to business with the laborious exercise of the mind & the want of that of the body I fear hath given birth to it. Today he hath been better than heretofore.

TO JAMES MADISON.

NEW YORK, Septr 29, 1786.

DEAR SIR,—Since my last it has been propos'd that each delegation be at liberty to communicate to the legislature of ye state to w^h they belong the project of Mr Jay & the proceedings of Congress thereon, & negativ'd. The Journal has been handed to Mr Jay. As yet he has said nothing nor have we information what course he means to take except from those here in his party, who affirm he will proceed. I wrote some weeks since to Col^o Mason upon this subject, at the time I wrote Govr Henry, but have rec^d no answer from him; from w^h circumstance as well as that of R. H. Lee's being in the opposite sentiment, there is room to conjecture he is not with us. R. H. L., I conclude has been influenc'd by Arthur,[1] who has been intrigu^g on the other side to serve his own pur-

[1] Lee.

poses, & leaving the business of the treasury b^d^ to Billy Duer. Bland is also in the Assembly so that possibly the party in favor of this project may have advocates with us. I hope Col^o^ Grayson hath recover'd. Be so kind as make my best respects to himself & lady & believe me y^r^ friend & servant

Ja^s^ Monroe.

TO THOMAS JEFFERSON.

New York, Oct'r 12, 1786.

Dear Sir,—Since my last I have receiv'd yours of the 9 of July. I advis'd you therein of the progress that had been made by Mr. Jay in the Spanish negotiation,—that he had brought a project before Congress for shutting the Mississippi and not for opening it for the term of twenty-five or thirty years, combin'd with some commercial stipulations; the latter to be the price of the former. Although admitted they open'd no new port nor admitted us into those now opening upon better terms than those we now enjoy. Since this project was presented, the negotiation has been more with Congress to repeal the *ultimata* than with Spain to carry the instructions into effect. I inform'd you of the proposition from Massachu. for the repeal in Committee of the whole. This was carried by Penna. inclusive eastward; Maryl'd inclusive southward being ag'nst it. Delaware was absent. In the house we mov'd to postpone the report of the Committee in order to take up propositions to the following effect: that the negotiation as to the Mississippi & the boundaries be taken out of the hands of the

Secretary & committed to Carmichael, the following points to be agreed on there & afterwards concluded here.—1st. That New Orleans be made an entrepôt for exports that they be shipp'd thence in the bottoms of America, Spain & France, under the regulations of each party. 2d. That they pay at s'd port a duty of 2½ p'r cent'm advalorem to the crown of Spain as a compensation for port duties. 3d. That imports be prohibited. 4th. That the instructions of Annapolis be reviv'd as the basis of a treaty of commerce. 5th. That two additional commissioners be appointed with equal powers with the Secretary to conclude the same. Upon this there was precisely the same division. The question was then taken on the report & carried by 7 States. Upon this the following proposition was mov'd "Is the repeal constitutionally carried by 7 States so as to give a new instruction materially different from the former" & set aside by the previous question—We are told he will proceed, but of this have no certain information. It is extraordinary he should have taken up the subject of trade, as powers upon principles that applied to all nations alike had already been given under a commission which had at the time his were, near one year to run to form a treaty with Spain, w'h were not repeal'd by these nor the subject mention'd except by a distant implication. I do suspect the business rests for the present until the new Delegates take their seats, in which case he will be govern'd by circumstances. I suspect the point will ultimately be carried, but this is yet doubtful—I forgot above to mention the nego-

tiation was to have been carried on in our propositions under the mediation of France. I sit out to-morrow for Virginia with Mrs. Monroe by land—my residence will be for the present in Fredericksburg—my attention is turn'd to Albemarle for my ultimate abode—the sooner I fix there the more agreeable it will be to me. I sho'd be happy to keep clear of the bar if possible & at present I am wearied with the business in w'h I have been engag'd. It has been a year of excessive labor & fatigue & unprofitably so. What you find in the journals especially the regulation of the coin, pass'd upon the report of the B'd of treasury without examination—or with very little—our minds were generally at the time otherwise engag'd. Mr. Madison & myself have been desirous if possible of forming an engagement for land in this State which would hereafter put us at ease. He promis'd me to advise you of it and to tell you of our little plan. If it were an object with you to sell your property in my estimation a better opportunity cannot present itself. I shall write you more fully on my arrival home on many publick affairs, which at present I have not leisure for. Tell Short he has the friendship of the delegation & always will have it—no appointm't of secretary of legation will take place to that C't & if one did he wo'd have the good wishes of our State—I am affectionately your friend & serv't

JA. MONROE.

By the Articles of Confederation, no delegate in Congress was eligible to serve more than three years in six. Monroe having

served three terms, extending from November, 1783, to November, 1786, was ineligible for another term. He returned to Virginia and settled in Fredericksburg, where he commenced the practice of law. Soon after this he was elected to the Virginia Legislature. He was succeeded in Congress by James Madison, who had previously held a seat in that body four years, 1779–83, the Articles of Confederation not having taken effect until their ratification, March 1, 1781.

TO JAMES MADISON.

SPRING HILL, 16 Decr., 1786.

DEAR SIR,—It wo^d have always suited me for you to pay the sum I am in advance for you in New York the last of this or the first or middle of next month as well as by any other disposition I co^d have made of it. Indeed I reserv'd it to discharge some small engagments of mine w^h became due there ab^t that time. My engagm^t for Major Pinckney by w^h I am to pay 200 dol^rs here, w^h he will replace in N. Y^k, makes it convenient but by no means necessary, to admit the proposal of paying that sum before that time—w^h if perfectly convenient to y^rself you will make to Mr Jones—but as I flatter myself I shall otherwise be able to provide for these engagments I must beg of you to subject y^rself to no inconvenience respecting them. Of these circumstances I intended advising you on y^r way to the northward upon w^h occasion we hop'd you wo^d take us in y^r route. We have been in ill health since my return but have nearly recover'd. Mrs Monroe is as well as usual & I have for some days been reliev'd from the pain in the face & from what accompanied it— when do you set out for N.

Yk. ?—Have you heard anything from the other States? Do they take correspondent measures with our Legislature upon federal subjects?

I am sincerely y^r^ fr^nd^ & serv^t^

Ja^s^ Monroe.

TO JAMES MADISON.

Fredericksburg, May 23, 1787.

Dear Sir,—My leisure furnishes me with the opportunity but the country around does not with the materials to form a letter worthy your attention. The scale of my observations is a narrow one & confin'd entirely within my room: & the subjects of my researches in which I am but seeking to make some proficiency, as I sho^d^ only detail to you the sentiments of others, give me nothing to supply the deficiency. We all look with great anxiety to the result of the Convention at Phil^a^ Indeed it seems to be the sole point on which all future mov'ments will turn. If it succeeds wisely & of course happily, the wishes of all good men will be gratified. The arrangements must be wise, and every way well concerted, for them to force their way thro' the States. The experience of the federal gov^t^ hath taught Congress, or rather those who have compos'd it, the sentiments of the several States upon the subject of the powers it sho^d^ possess. Yet it may by some be thought doubtful, whether it hath not taught them that it will be almost impossible to adopt any plan that will have the concurrence of all the States; or if it hath, that will be of any duration afterwards. It is however the business of every

passenger to do what he thinks right & to hope that others will act on the same principle. I have to acknowledge y^r^ kind attention to my aff^rs^ in N. York & particularly for the dispatch of my furniture & the advance I find you have been under the necessity of making for me. I am sorry to find it probable that my share of Mordicai's effects (when obtain'd) will not even reimburse this sum. At what time I shall be able to make up the deficiency as well as remit the am^t^ &^c^ for the completion of our contract with Taylor I cannot precisely say. I have hopes of effecting it soon, but can give no assurance with certainty. I have not heard of the furniture since it sail'd but suspect it is at Norfolk, from whence I have taken measures for its removal. I am, dear sir, y^r^ friend & serv^t^

JA^s^ MONROE.

TO THOMAS JEFFERSON.

FREDERICKSBURG, July 27, 1787.

DEAR SIR,—I can scarcely venture on an apology for my silence for some time past but hope notwithstanding to be forgiven. Since I left N. Y^k^ I have been employ'd in the discharge of duties entirely new to me, oftentimes embarrassing & of course highly interesting, but w^h^ have sought the accomplishment of only a few objects. In Octr last I was admitted to the bar of the C^ts^ of Appeal & Ch'^y^ & the April following of the Genl Court. In the course of the winter I mov'd my family to this town, in w^h^ I have taken my residence with a view to my profession.

These pursuits tho' confin'd have not been attended with the less difficulty. A considerable part of my property has consisted in debts, and to command it or any part of it, hath been no easy matter. Indeed in this respect I have fail'd almost altogether. Several considerations have induc'd me to prefer this place for the present, the principal of w^h^ is the command of an house and other accomodations (the property of Mr Jones) upon my own terms. My standing at the bar hath been so short, that I cannot judge of it in that respect, tho' am inclined to believe it, not an inelegible position for one of that profession. But I consider my residence here as temporary, merely to serve the purpose of the time, and as looking forward to an establishment somewhere on this side the mountains, and as convenient as possible to Monticello. Mr Jones is in ill health & begins to be satisfied his existence depends in a great degree upon a similar position. I have earnestly advis'd him to move up & at least make the experiment. Mrs Monroe hath added a daughter to our society who tho' noisy, contributes greatly to its amus'ment. She is very sensibly impress'd with your kind attention to her, & wishes an opportunity of shewing how highly she respects & esteems you. With the political world I have had little to do since I left Congress. My anxiety however for the gen^l^ welfare hath not been diminish'd. The affairs of the federal government are, I believe, in the utmost confusion. The convention is an expedient that will produce a decisive effect. It will either recover us from our present em-

barrassments or complete our ruin; for I do suspect that if what they recommend sho^d be rejected this wo^d be the case. But I trust that the presence of Genl Washington will have great weight in the body itself so as to overawe & keep under the demon of party, & that the signature of his name to whatever act shall be the result of their deliberations will secure its passage thro' the union.

The county in w^h I reside have plac'd me in the Legislature. I have been mortified however to accept this favor from them, at the expence of Mr Page. I suppos'd it might be serviceable to me in the line of my profession—my services have been abroad, & the establishm^t others have gain'd at the bar in the meantime requires every effort in my power to repair the disadvantage it hath subjected me to. The Governor,[1] I have reason to believe is unfriendly to me & hath shewn (If I am well inform'd) a disposition to thwart me; Madison, upon whose friendship I have calculated, whose views I have favor^d, and with whom I have held the most confidential correspondence since you left the continent, is in strict league with him & hath I have reason to believe concurr'^d in arrangements unfavorable to me; a suspicion supported by some strong circumstances that this is the case, hath given me great uneasiness—however in this I may be disappointed & I wish it may be so. I shall I think be strongly impressed in favor of & inclined to vote for whatever they will recommend. I have

[1] Edmund Randolph. He was also one of the Virginia delegates to the Constitutional Convention.

heard from Beckley tho' not from himself (who accompanied the Governor up, in expectation of being appointed clerk) they had agreed upon giving the United States a negative upon the laws of the several States, if it can be done consistently with the constitution of the several States—indeed it might be well to revise them all & incorporate the fed! constitution in each. This I sho^d think proper—it will if the body is well organiz'd, be the best way of introducing uniformity in their proceedings that can be devis'd, of a negative kind, or by a power to operate indirectly. But a few months will give us the result be it what it may. You mentioned in y^r last the injury you had sustain'd in y^r wrist. How did it happen? I hope you found y^r trip to the south of advantage—y^r Daughters I hope are well—nothing be assur'd will give me more pleasure than to hear from you frequently. If I can be of service in y^r private aff^rs in any line, or with respect to Peter Carr,[1] I beg you to command me. It will always be convenient for me to attend to anything of that kind, either in person or by a suitable messenger. I am dear sir your affectionate friend & servant. JA^s MONROE.

Where is Short? how is he—remember me to him.

TO JAMES MADISON.

RICHMOND, Octr 13, 1787.

DEAR SIR,—I was favor'd with yours by Mr Blair, and a late one covering one from Mr Jefferson, a few

[1] Jefferson's nephew.

days since. I sho^d have answer'd the former sooner but defer'd it untill my arrival here whither I was at that time on the point of setting out. Mr^s M. accompanied me & will remain untill my return w^h will not be untill the adjournm^t of the Assembly. The report from Phil^a [1] hath presented an interesting subject to their consideration. It will perhaps agitate the minds of the people of this State more than any subject they have had in contemplation since the commencem^t of the late revolution, for there will be a greater division among the people of character than then took place, provided we are well informed as to the sentiments of many of them. It is said that Mr Henry, Genl Nelson, Harrison & others are against it. This insures it a powerful opposition more especially when associated with that of the 2. dissenting deputies.[2] There are in my opinion some strong objections agn̄st the project, w^h I will not weary you with a detail of. But under the predicament in w^h the Union now stands & this State in particular with respect to this business, they are over balanc'd by the arguments in its favor. The Assembly will meet to morrow, & we have reason to believe we shall have an house the first or 2^d day. We shall soon find how its pulse beats, & what direction this business will take. I believe there will be no opposition to a convention. However of this I shall

[1] The Philadelphia Convention—having framed the Constitution, and passed a resolution that it should be laid before Congress, with a recommendation that it should be submitted for ratification "to a Convention of Delegates chosen in each State by the people thereof, under the recommendation of its Legislature" —had adjourned *sine die* Sept. 17, 1787.

[2] Edmund Randolph and George Mason, two of the Virginia delegates, had refused to sign the Constitution as approved by the Convention.

be able to give you better information in a few days. I am happy to hear you have rec^{d} 100 dol^{rs} from Gen. —for his brother—Govr Pinckney. I have been much concern'd that I have not been able to remit you the sums that have been necessary to replace y^{r} advances as well as fulfil our engagement with Taylor. But as yet I am unable to do it. I had calculated on considerable sums that were due me, some contracted in a way that seem'd to ensure a payment soon after demanded. In the latter instance I have been entirely disappointed. This induc'd me to have recourse to other means with those on whom I had not that claim. But the administration of justice here did not promise an early decision in my favor. Fortunately I have lately obtain'd a judgmt. against a man of property for near 400 £. It is however under such circumstance that it is possible for him to throw it into Ch^{y}, altho the event of the business wo^{d} infallibly be as it now stands. Provided I will wait a few weeks he now promises, as at first he did, to pay it. But he hath & may still disappoint me, & if I serve an execution on him he may take the course suggested above. I give you this detail merely to inform you of my prospects, and at the same time to suggest the propriety of disingaging myself from the contract, [if Taylor considers himself injur'd & cannot wait the result] & of requesting you to do it for me upon the most advantageous terms. I sho^{d} not suggest this to you if I did not know that it were equally difficult for you to raise the money as for myself—perhaps from this cause both yours & my credit are at this time suffering—which must not be.

TO JAMES MADISON.

RICHMOND, Dec'r 6, 1787.

DEAR SIR,—I have had hopes of being able to give you something from the proceedings of the Assembly of an interesting nature which might also be agreeable—but perhaps yr. wishes in this respect may not even yet be gratified. The resolutions respecting ye Constitution you have long since receiv'd. In those you find no provision for the pay or priviledges of the members of the Convention—those, especially the former, were thought the subject matter for an act & were separated from them. A few days since resolutions were brought in by Mr. Hopkins & supported by Mess'rs Henry & Mason for this purpose & providing funds for defraying ye expense of Deputies to attend other convention or conventions of the States, if this convention shd. think ye measure expedient, wh. were adopted by the house by a majority of abt. 15, the bill is not yet brought in—The B. [ritish] debt business[1] hath also been another subject of usurous management—resolutions of absolute repeal pass'd the committee first by a great majority—without any apparent necessity. Mess'rs Mason & Nicholas who advocated them agreed to a clause of suspension until the other States shod. pass similar laws of repeal. When the bill was under discussion yesterday Nicholas who had been most active & zealous in the business chang'd his former ground in every instance and acceded to the proposition of Mr. Henry wh. suspended its effect until G. B. shall have com-

[1] Repealing acts previously passed to prevent the recovery of British debts.

plied—owning himself convinc'd by the arguments that had been us'd. This gent'n appears to have abandon'd the prospect of instalments wh. he brought forward early in the session—that of district or circuit courts seems also to be dispair'd of by those who are desirous of amending this branch of our system. A bill of Mr. Henry's for prohibiting ye importation of foreign distill'd spirits & other purposes, is among ye. orders of the day & will most probably be thrown out. It appears difficult to organize the affrs. of this & perhaps of any one state in a tolerable manner & it is doubtful, if it were done whether it cod. be executed or whether the people wod. not have it repeal'd the next assembly. The ct. of chy. breaks up tomorrow. The chancelor is yet present but in a low state of health. I doubt whether I shall stay until ye end of the session, Mrs. M. & her sister are with me. What is new with you? I think the cloud wh. hath hung over us for sometime past is not yet dispell'd or likely soon to be. Sincerely I am

Dr. Sir, yr. friend & servant

JA^{s} MONROE.

Since the above the house went in committee on a bill for amending ye cty. ct. law—it terminated in 2 resolutions, 1. That the administration of justice shod. be made more equal & expeditious. 2. That under executors, property sold so low as to require some legislative provision for preventing it—afterwards in ye house a proposition for establishing district courts was agreed to; the alternative of extendg. the terms of the gen'l ct. was rejected by a great majority—the

plan of instalm^ts will be brot. forward, and that of altering the execut^n law so as to prevent property being sold but for ½ its value—the former is the favorite of Mr. N. the latter of Mr. Henry—it is not improbable but that the district bill may fail if encumber'd with either, co'd either get a decided majority in preference to the other, yt. it is possible that their division upon this point may lessen the weight of opposition to the district bill & promote its adoption.

TO JAMES MADISON.

FREDBG., Feby. 7, 1788.

DEAR SIR,—We have nothing new here—the proceedings of our assembly you are no doubt possess'd of thro' the hands of the Governor, especially that part which is connected with the U. S. I mean the revenue act & the resolutions respecting the cession. In the former as much was advanced to the U. S. as cod. be obtain'd. In the latter more moderation was observ'd than at first appearances promis'd. It was perhaps bro't forward to serve other purposes, (I mean in the extent to wh. the Chairman advocated it) but it was put in its present form without debate & by his own consent, perhaps to avoid it. The rectitude of the measure depends on the want of it in some of the Com'rs. Unless the objection against, at least one, is good, it cannot be defended. But you have the whole of the proceedings before you.

This new constitution still engages the minds of people with some zeal among the partizans on either

side. It is impossible to say which preponderates. The northern part of the State is more generally for it than the southern. In this county (except in the town) they are *against* it I believe universally. I have, however, this from report only, having not been from home. My late colleague is decidedly so. Mr. Page is for it & forms an exception to the above. It is said here Georgia has adopted it, N. H. also. The object in the postponement of the meeting of our Convention to so late a day was to furnish an evidence of the disposition of the other States to that body when it sho'd be assembled. If they or many of them were *against* it our State might mediate between contending parties & lead the way to an union more palitable to all. If all were for it, let the knowledge of that circumstance have its weight in their deliberations. This I believe was the principle on wh. that measure was adopted, at least those whose sentiments I knew express'd it to be theirs. We expect you in soon & shall be happy to see you here. Sincerely I am Yr. fri'd & serv't

JA.S MONROE.

TO THOMAS JEFFERSON.

RICHMOND, April 10, 1788.

DEAR SIR,—I must depend on your kindness to pardon my omission in not writing you oftener, for I will not pretend to justify it. I sho.d have wrote you as before, and can give no satisfactory reason even to myself why I have not, for that my communications will not be of much importance I do not urge as an

excuse. I will however make amends in future. The real pleasure of my life, which consists in being at home with my family, has been interrupted by an attendance at the bar & service in the legislature since I left N. Yk. Altho' neither of these employments has many allur'ments in it, yet I think the latter rather a more uncomfortable one than the former. Perhaps however I obtain'd a seat in it, at a very unfortunate period, both as to publick affrs and my own temper of mind. I doubt whether I can enumerate to you the several acts wh pass'd the last Assembly at present; I mean those that are worthy of note: the most material however were those respecting the revenue, and the Judiciary department: of the genl court after this term, nothing is left but the name, and in its stead 18. district courts are establish'd. Each district court bears the same relation to the County cts within it that the genl ct did to all the counties within the Commonwealth. Over these is organiz'd the ct of Appls, consisting of the Judges of all the courts (4. additional having been added to the genl ct, Prentis, Tucker, Parker & G. Jones the latter of whom having declin'd acceptance, White has been appointed in his room) with similar powers over the district that they have over the cty courts: 3. Judges form a district ct The plan is I believe unpopular with the former Judges, and is most probably highly defective. It is however not improbable the putting the matter in motion may produce some beneficial effects. Tis presumable the Judges may examine the subject themselves, for I hear some of them doubt the prac-

ticability of its execution as the law now stands, and suggest such amendments as they think necessary. The reduction of the number of districts to ½. wo[d] perhaps be greatly for the better. The taxes are reduc'd; those on slaves under 12. and on white male tithables are repealed. The Convention of this State is to meet in June to take up the rep[t] from Phil[a]. The people seem much agitated with this subject in every part of the State. The principal partizans on both sides are elected. Few men of any distinction have fail'd taking their part. Six States have adopted it, N. Hampshire the 7th that took the subject up adjourned until late in June, with a view it is presum'd, to await the decision of those States who postpon'd their meeting to the latest day as Virg[a] N. Y[k] & N° Carolina, and from that circumstance suppos'd least friendly to it. The event of this business is altogether incertain, as to its passage thro the Union. That it will no where be rejected admits of little doubt. And that it will ultimately, perhaps in 2. or three years, terminate, in some wise and happy establishment for our country, is what we have good reason to expect. I have it not in my power at present to commit to cypher any comments on this plan but will very soon, I mean concisely as to its organization and powers: nor to give you the arrangment of characters on either side, with us. I write by Col[o] Carrington & he leaves this immediately. It will give me infinite pleasure to hear from you occasionally. My county has plac'd me among those who are to decide on this question; I shall be able to give you a view

of its progress that may be interesting to you.[1] Can you command my services in any instance? Are you in health, how happen'd the dislocation of y^r^ wrist and is it well? I think I mention'd to you in my last Mrs M. had made us happy by giving us a daughter who is now 16. months old and begins to talk. I hope Miss Patsy and Polly are well. I shall write you again soon and am, affectionately, your friend & serv^t^ JA^s^ MONROE.

Present my respects to Mr Short.

TO THOMAS JEFFERSON.

FREDERICKSBURG, July 12, 1788.

DEAR SIR,—Altho' I am persuaded you will have received the proceedings of our convention upon the plan of government submitted from Phil^a^ yet as it is possible this may reach you sooner than other communications I herewith inclose a copy to you. They terminated as you will find in a ratification which must be consider'd, so far as a reservation of certain rights go, as conditional, with the recommendation of subsequent amendments. The copy will designate to you the part which different gen^tn^ took upon this very interesting & important subject. The detail in the managment of the business, from your intimate knowledge of characters, you perhaps possess with great accuracy, without a formal narration of it. Pendleton[2] tho'

[1] Monroe had been elected a delegate from Spottsylvania County to the State Convention called to ratify or reject the proposed Constitution.

[2] The Convention met June 2, 1788.

"The Hon. Edmund Pendleton was nominated and unanimously elected President; who, being seated in the Chair, thanked the convention for the

much impaired in health and in every respect in the decline of life shewed as much zeal to carry it, as if he had been a young man. Perhaps more than he discover'd in the commencement of the late revolution in his opposition to G. Britain. Wythe acted as chairman to the committee of the whole and of course took but little part in the debate—but was for the adoption relying on subsequent amendments. Blair said nothing, but was for it. The governor exhibited a curious spectacle to view. Having refused to sign the paper every body supposed him against it. But he afterwards had written a letter[1] & having taken a part which might be called rather vehement than active, he was constantly labouring to shew that his present conduct was consistent with that letter & the letter with his refusal to sign. Madison took the principal share in the debate for it. In which together with the aid I have already mention'd he was somewhat assisted by Innes, Lee, Marshal, Corbin, & G. Nicholas, as Mason, Henry & Grayson were the principal supporters of the opposition. The discussion as might have been expected where the parties were so nearly on a balance, was conducted generally with great order, propriety & respect of either party to the other—and its event was accompanied with no circumstance on the part of the victorious that was extra exultation, nor of depression on the part of the unfortunate. There was no bonfire illumination &c and

honor conferred on him, and strongly recommended the members to use the utmost moderation and temper in their deliberations on the great and important subject now before them."—*Elliot's Debates*, vol. iii., p. 1.

[1] To the Speaker of the House of Delegates.—*Elliot's Debates*, vol. i., p. 482.

plan of instalm^ts will be brot. forward, and that of altering the execut^n law so as to prevent property being sold but for ½ its value—the former is the favorite of Mr. N. the latter of Mr. Henry—it is not improbable but that the district bill may fail if encumber'd with either, co'd either get a decided majority in preference to the other, yt. it is possible that their division upon this point may lessen the weight of opposition to the district bill & promote its adoption.

TO JAMES MADISON.

FREDBG., Feby. 7, 1788.

DEAR SIR,—We have nothing new here—the proceedings of our assembly you are no doubt possess'd of thro' the hands of the Governor, especially that part which is connected with the U. S. I mean the revenue act & the resolutions respecting the cession. In the former as much was advanced to the U. S. as cod. be obtain'd. In the latter more moderation was observ'd than at first appearances promis'd. It was perhaps bro't forward to serve other purposes, (I mean in the extent to wh. the Chairman advocated it) but it was put in its present form without debate & by his own consent, perhaps to avoid it. The rectitude of the measure depends on the want of it in some of the Com'rs. Unless the objection against, at least one, is good, it cannot be defended. But you have the whole of the proceedings before you.

This new constitution still engages the minds of people with some zeal among the partizans on either

an opinion you had given on this subject, in a letter to Mr. Donald.[1] This afterwards became the subject of much inquiry & debate in the house, as to the construction of the contents of such letter & I was happy to find the great attention & universal respect with which the opinion was treated, as well as the great regard and high estimation in which the author of it was held. It must be painful to have been thus made a party in this transaction but this must have been alleviated by a consideration of the circumstances I have mentioned.

From the first view I had of the report from Phil[a] I had some strong objections to it. But as I had no inclination to inlist myself on either side, made no communication or positive declaration of my sentiments untill after the Convention met. Being however desirous to communicate them to my constituents, I address'd the enclos'd letter to them, with intention of giving them a view thereof eight or ten

[1] "I wish with all my soul that the nine first Conventions may accept the new Constitution, because this will secure to us the good it contains, which I think great & important, but I equally wish that the four latest Conventions, whichever they be, may refuse to accede to it till a declaration of rights be annexed. This would probably command the offer of such a declaration, & thus give to the whole fabric perhaps as much perfection as any one of that kind ever had."—*Jefferson to A. Donald, Feb. 7, 1788.*

Jefferson afterwards changed his mind on this point, but too late to make it known to his friends in Virginia, before the action of the Convention.

"At first I wished that when 9. States should have accepted the Constitution, so as to ensure us what is good in it, the other 4 might hold off till the want of the bill of rights at least might be supplied. But I am now convinced that the plan of Massachusetts is the best. That is, to accept, and to amend afterwards. If the States which were to decide after her should all do the same, it is impossible but they must obtain the essential amendments."—*Jefferson to Carmichael, June 3, 1778.*

excuse. I will however make amends in future. The real pleasure of my life, which consists in being at home with my family, has been interrupted by an attendance at the bar & service in the legislature since I left N. Yk. Altho' neither of these employments has many allur'ments in it, yet I think the latter rather a more uncomfortable one than the former. Perhaps however I obtain'd a seat in it, at a very unfortunate period, both as to publick affrs and my own temper of mind. I doubt whether I can enumerate to you the several acts wh pass'd the last Assembly at present; I mean those that are worthy of note: the most material however were those respecting the revenue, and the Judiciary department: of the genl court after this term, nothing is left but the name, and in its stead 18. district courts are establish'd. Each district court bears the same relation to the County crts within it that the genl ct did to all the counties within the Commonwealth. Over these is organiz'd the ct of Appls, consisting of the Judges of all the courts (4. additional having been added to the genl ct, Prentis, Tucker, Parker & G. Jones the latter of whom having declin'd acceptance, White has been appointed in his room) with similar powers over the district that they have over the ctys courts: 3. Judges form a district ct. The plan is I believe unpopular with the former Judges, and is most probably highly defective. It is however not improbable the putting the matter in motion may produce some beneficial effects. Tis presumable the Judges may examine the subject themselves, for I hear some of them doubt the prac-

ticability of its execution as the law now stands, and suggest such amendments as they think necessary. The reduction of the number of districts to ½. wo^{d} perhaps be greatly for the better. The taxes are reduc'd; those on slaves under 12. and on white male tithables are repealed. The Convention of this State is to meet in June to take up the rep^{t} from Phil^{a}. The people seem much agitated with this subject in every part of the State. The principal partizans on both sides are elected. Few men of any distinction have fail'd taking their part. Six States have adopted it, N. Hampshire the 7th that took the subject up adjourned until late in June, with a view it is presum'd, to await the decision of those States who postpon'd their meeting to the latest day as Virg^{a} N. Y^{k} & N^{o} Carolina, and from that circumstance suppos'd least friendly to it. The event of this business is altogether incertain, as to its passage thro the Union. That it will no where be rejected admits of little doubt. And that it will ultimately, perhaps in 2. or three years, terminate, in some wise and happy establishment for our country, is what we have good reason to expect. I have it not in my power at present to commit to cypher any comments on this plan but will very soon, I mean concisely as to its organization and powers: nor to give you the arrangment of characters on either side, with us. I write by Col^{o} Carrington & he leaves this immediately. It will give me infinite pleasure to hear from you occasionally. My county has plac'd me among those who are to decide on this question; I shall be able to give you a view

of its progress that may be interesting to you.[1] Can you command my services in any instance? Are you in health, how happen'd the dislocation of y^r^ wrist and is it well? I think I mention'd to you in my last Mrs M. had made us happy by giving us a daughter who is now 16. months old and begins to talk. I hope Miss Patsy and Polly are well. I shall write you again soon and am, affectionately, your friend & serv^t^ JA^s^ MONROE.

Present my respects to Mr Short.

TO THOMAS JEFFERSON.

FREDERICKSBURG, July 12, 1788.

DEAR SIR,—Altho' I am persuaded you will have received the proceedings of our convention upon the plan of government submitted from Phil^a^ yet as it is possible this may reach you sooner than other communications I herewith inclose a copy to you. They terminated as you will find in a ratification which must be consider'd, so far as a reservation of certain rights go, as conditional, with the recommendation of subsequent amendments. The copy will designate to you the part which different gen^tn^ took upon this very interesting & important subject. The detail in the managment of the business, from your intimate knowledge of characters, you perhaps possess with great accuracy, without a formal narration of it. Pendleton[2] tho'

[1] Monroe had been elected a delegate from Spottsylvania County to the State Convention called to ratify or reject the proposed Constitution.

[2] The Convention met June 2, 1788.

"The Hon. Edmund Pendleton was nominated and unanimously elected President; who, being seated in the Chair, thanked the convention for the

much impaired in health and in every respect in the decline of life shewed as much zeal to carry it, as if he had been a young man. Perhaps more than he discover'd in the commencement of the late revolution in his opposition to G. Britain. Wythe acted as chairman to the committee of the whole and of course took but little part in the debate—but was for the adoption relying on subsequent amendments. Blair said nothing, but was for it. The governor exhibited a curious spectacle to view. Having refused to sign the paper every body supposed him against it. But he afterwards had written a letter[1] & having taken a part which might be called rather vehement than active, he was constantly labouring to shew that his present conduct was consistent with that letter & the letter with his refusal to sign. Madison took the principal share in the debate for it. In which together with the aid I have already mention'd he was somewhat assisted by Innes, Lee, Marshal, Corbin, & G. Nicholas, as Mason, Henry & Grayson were the principal supporters of the opposition. The discussion as might have been expected where the parties were so nearly on a balance, was conducted generally with great order, propriety & respect of either party to the other—and its event was accompanied with no circumstance on the part of the victorious that was extra exultation, nor of depression on the part of the unfortunate. There was no bonfire illumination &c and

honor conferred on him, and strongly recommended the members to use the utmost moderation and temper in their deliberations on the great and important subject now before them."—*Elliot's Debates*, vol. iii., p. 1.

[1] To the Speaker of the House of Delegates.—*Elliot's Debates*, vol. i., p. 482.

had there been I am inclin'd to believe, the opposition wo.d have not only express'd no dissatisfaction, but have scarcely felt any at it, for they seemed to be gov.d by principles elevated highly above circumstances so trivial & transitory in their nature.

The conduct of Gen.l Washington upon this occasion has no doubt been right and meritorious. All parties had acknowledged defects in the federal system, and been sensible of the propriety of some material change. To forsake the honorable retreat to which he had retired & risque the reputation he had so deservedly acquir'd, manifested a zeal for the publick interest, that could after so many and illustrious services, & at this stage of his life, scarcely have been expected from him. Having however commenc'd again on the publick theatre, the course which he takes becomes not only highly interesting to him but likewise so to us: the human character is not perfect; if he partakes of those qualities which we have too much reason to believe are almost inseparable from the frail nature of our being, the people of America will perhaps be lost. Be assured his influence carried this Government; for my own part I have a boundless confidence in him nor have I any reason to believe he will ever furnish occasion for withdrawing it. More is to be apprehended if he takes a part in the public councils again, as he advances in age, from the designs of those around him than from any disposition of his own.

In the discussion of the subject an allusion was made I believe in the first instance, by Mr. Henry to

an opinion you had given on this subject, in a letter to Mr. Donald.[1] This afterwards became the subject of much inquiry & debate in the house, as to the construction of the contents of such letter & I was happy to find the great attention & universal respect with which the opinion was treated, as well as the great regard and high estimation in which the author of it was held. It must be painful to have been thus made a party in this transaction but this must have been alleviated by a consideration of the circumstances I have mentioned.

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days before it met, but the impression was delayed so long, & so incorrectly made, and the whole performance upon re-examination so loosely drawn that I thought it best to suppress it. There appear'd likewise to be an impropriety in interfering with the subject in that manner in that late stage of the business. I enclose it you for your perusal & comment on it.

You have, no doubt, been apprized of the remonstrance of the Judges to the proceedings of the Legislature in the passage particularly of the district court law, as likewise of its contents. The subject will be taken up in the fall. The Legislature altho' assembled for the purpose declin'd entering into it, because of the season of the year, being anxious to get home about this harvest. For this purpose they pass'd an act suspending the operation of the district court law untill some time in Decr or Jany next. Altho different modifications may be made of it yet I think the bill will be retained in its principal features.

I still reside here and perhaps shall continue to do so whilst I remain at the bar, especially if the district court law holds its ground. I hold a seat in the legislature & believe I shall do it for some time. The absence from my family is painful but I must indeavor to have them with me as much as possible. I hope you enjoy your health well. I have heard nothing to the contrary. I hope also that Miss Patsy & Molly are well. Short I likewise hope is in health. Remember me to them & believe me most affectionately your friend & servant.

Ja^{s} Monroe.

Monroe in the Virginia Convention of 1788.

Monroe does not, in this letter, state what part he himself took in the Convention, but it was an important one. In his first speech, on June 10th, he declared that he came "not as the partisan of this or that side of the question, but to commend where the subject appears to me to deserve commendation; to suggest my doubts where I have any; to hear with candor the explanation of others; and in the ultimate result, to act as shall appear for the best advantage of our common country."

He asserted that he was "strongly impressed with the necessity of a firm national government," but he had some decided objections to the proposed Constitution. The principal of these were:

1. The power of direct taxation vested in the Federal government.

2. The absence of a Bill of Rights, or any express provision limiting the general powers of the government.

3. The lack of responsibility on the part of the Federal legislature and Executive.

4. The re-eligibility of the President.

For the first time in his political career he found himself opposed to his friend Madison, but he had the consolation of believing that he represented the views of Mr. Jefferson, as expressed in his letter to Donald.

On the 13th of June he took a prominent part in the most interesting discussion that occurred during the sittings of the Convention.

Patrick Henry, who led the opposition, with unequalled eloquence and unsurpassed adroitness, knowing the great interest felt in Virginia, and especially by the Kentucky district, in the free navigation of the Mississippi, seized upon the repeal by Congress, in 1786, of the instructions of 1785 making it an essential condition of a treaty with Spain, as an evidence that the adoption of the Constitution would result in a government that would yield the Mississippi to Spain, and sacrifice the interest of the Southern and Western States to the commercial advantage of the Northern and Eastern States. This repeal, though not publicly announced—for it appeared only on the secret journal of

Congress—was known to the leaders of both parties. Henry, resolved to make the most of it, precipitated its disclosure by calling upon those members who had been delegates in Congress to communicate the action of that body on this subject to the Convention.

In response to this call, Monroe gave a full account of the proceedings of Congress while he was a delegate, the gist of which was that, in spite of the strenuous opposition of the Southern States, the seven Easternmost States had voted to repeal the instructions which made the free navigation of the Mississippi a *sine qua non* of the treaty. He also declared "that the interest of the western country would not be as secure, under the proposed Constitution, as under the Confederation; because, under the latter system, the Mississippi could not be relinquished without the consent of nine States; whereas, by the former, a majority of seven States could yield it."

"The speech of Monroe was well received. It made upon the House a strong impression, which was heightened by the modesty of his demeanor, by the sincerity which was reflected from every feature of his honest face, and by the minute knowledge which he exhibited of a historical transaction of surpassing interest to the South. But if the impression was felt by the members generally, it was felt most keenly by those who were anxious about the sales of their crops and for the prosperity of their families. The members from the West were furious. They had just learned for the first time the imminent hazard to which their most valued privilege had been exposed, and they did not conceal their indignation."—*History of the Virginia Convention of 1788*, by Hugh Blair Grigsby, p. 240.

Monroe was followed by Grayson, who confirmed his statement of facts, and reinforced his arguments. It was fortunate for the fate of the Constitution that Madison, its ablest champion in the Convention, was also a member of the current Congress, from which he had absented himself to attend the Convention. Monroe's term had expired in November, 1786, and Grayson's in November, 1787. Madison, therefore, could speak from a later date as to the temper of Congress. He was placed, however, in a delicate

position. He could not deny what Monroe and Grayson had stated, and the fact was that the Congress then sitting had taken no action on the subject, and so far as the record showed, the situation there was unchanged. He himself had been and still was the most uncompromising advocate of the freedom of the Mississippi, and he could not justify or defend the repeal of 1786. He met the dilemma with the resourceful tact which distinguished him as the greatest debater of his day. He placed himself at once *en rapport* with the friends of the Mississippi, by declaring that neither the old Confederation nor the proposed Constitutional government cared to yield the right of its free navigation, for that would be repugnant to the law of nations. He argued that it was even more the interest of the Eastern than of the Southern States that the Mississippi should remain open, and expressed the opinion, "from the best information, that it never was the sense of the people at large, or the prevailing character of the Eastern States, to approve of the measure (of repeal)." He admitted that seven of the States had been willing to waive the right of navigation for a time, but denied that they had ever wished to yield it altogether. Of these States, he said, one, New Jersey, had since instructed its delegates not to give it up. But, he contended, if there was any such desire, it could be accomplished more easily under the Confederation than under the Constitution, while on the other hand, if the people of this country wished to secure forever the free navigation of the river, it could only be done by a strong national government that could concentrate and wield the whole power of the Union, to maintain it against all opposition. He concluded by saying: "Were I at liberty, I could develop some circumstances which would convince this House that this project will never be revived in Congress, and that, therefore, no danger is to be apprehended."

But the impression made by Monroe and Grayson was not easily overcome, and at the end of the day's discussion, the friends of the Constitution were very despondent, and Madison wrote Washington:

"Appearances at present are less favorable than at the date of my last. Our progress is slow, and every advantage is taken of

the delay to work on the local prejudices of particular sets of members. British debts, the Indiana claim, and the Mississippi, are the principal topics of private discussion and intrigue, as well as public declamation. The members who have served in Congress have been dragged into communication, on the last, which could not be justified on any other occasion, if on the present. There is reason to believe that the event may depend on the Kentucky members, who seem to lean more against than in favor of the Constitution.[1] The business is in the most ticklish state that can be imagined. The majority will certainly be small, on whatever side it may finally lie; and I dare not encourage much expectation that it will be on the favorable side."—June 13, 1788. *Madison MSS.*, Dept. of St., vol. iv., p. 40.

The friends of the Constitution, aided by the influence of Washington, finally carried its ratification, but it was by a bare majority of 10 out of 168 votes, and then only after they had agreed to submit the amendments demanded by the minority to the consideration of the first Congress under the Constitution, to be acted upon under the fifth article thereof, and to instruct the representatives of the State to urge their adoption. The principal of these were afterwards embodied in the ten amendments proposed by that body and ratified by the States.

TO JAMES MADISON.

FREDERICKSBG, Sepr. 24, 1788.

DEAR SIR,—I was favor'd with yours of the 14. two or three days past. The apology is rather due from those gentn. to whom it alludes, both to you and me, for their omission, than that they have any cause of complaint. The truth is, I suspect they were more at ease with their commerc'l acquaintance, than they would have been elsewhere, and are happier in their

[1] Of the fourteen Kentucky delegates, ten eventually voted against ratification.

escape from the attention of others, than it cod. have made them. I perfectly agree in the propriety of yielding to the majority respecting the place of residence. If a concession must be made, the minority must make it, and when the States south of us yielded all hope was at an end. I have long since desponded of Georgetown, nor are my hopes more sanguine under the new than they have been under the old government; but it has in my estimation every consideration of reason and propriety on its side, & of course every effort should be made in its favor whilst there is a prospect of success. Two men have been taken up in this town on a suspicion of counterfeiting publick securities—their names are Willet & Whitney from the Eastw'd. It is believ'd they will be sent to Richm'd by the decision of to-morrow.

The lottery is drawn. The prizes of 70 £, 5 £ & 2 £ fell to the lot of Mr. Carrington, nephew of Colo. C., to compensate him for the expence of 4 tickets—those of 5 £ & 2 £ belong to you. Mr. Jones has 4 £ to replace a like sum for four tickets—Almost every person to whom I sold any except my own family were among the fortunate adventurers—Beside the proportion I was under the necessity of taking as a trustee (ab't 30). I took several for my family all of which were blanks—In the former character I lost ab't 4 £ : 10 s :—The deduction of 15 per cent'm upon each prize leaves the profit to the adventurer—Will you have yours laid out in tickets in the 2d class? Inform me and I will apprize of those that shall be assign'd you.

M[r] Jones has recover'd and was well a few days

since—he is now in King George—We are in health & desire our respects to our friends in b. way [Broadway]. I am Dear Sir your friend & servt.

JA^{s} MONROE.

TO JAMES MADISON.

RICHMOND, Oct'r 26, 1788.

DEAR SIR,—My professional duties have taken me from the political scene here, so that I have it not in my power yet to give you anything in that line of moment. On Monday I shall take my seat in the house & soon become in some measure acquainted, I suppose, with the views of parties. Carrington, with whom I was in comp'y a few minutes yesterday, complains of a decision of the house by which he was excluded under his late election from his seat—The majority, I understand, was great & from its complexion suspect he has suffer'd his wishes to influence his judgm't. The merits of the cause I know not & only judge from external circumstances.

The conduct of Congress respecting the Mississippi appears to me to be right [1]—Their opinion so far as it goes may have some influence on the new gov't—They only however say they never intended to surrender

[1] The delegates of North Carolina having called the attention of Congress to the uneasiness produced among the owners of Western lands by a report "that Congress are disposed to treat with Spain for the surrender of their claim to the navigation of the river Mississippi," upon the report of a committee of which Hamilton was chairman and Madison a member, Congress had

"*Resolved*, That the said report not being founded in fact, the delegates be at liberty to communicate all such circumstances as may be necessary to contradict the same, and to remove misconceptions.

"That the free navigation of the river Mississippi is a clear and essential right

the right & that they think such a measure improper. A temporary forbearance falls not under their exception either as having been propos'd or as inexpedient: and this I think equally pernicious as it may affect the form of the confederacy.

I enclose you a letter for Mr. Jefferson & likewise one for my brother in Edinburgh—Be so kind as to forward them by the packets.

I have lately clos'd a bargain with Colo. Nicholas for his property in Charlotteville & 300 acres contiguous to it, within one mile—The buildings stand on an acre & part of a 2d in town and are valuable—They cost him 2090£ & materials on hand are worth above 100£.—The land is good for farming & is the only woodland contiguous—I am to give 2500£ payable in lands in the western country to be valued by Marshall & others there, as such lands wo'd sell upon two years credit—With condition that if I dislike the valuation I may keep the land & pay the money upon six years credit, paying interest after the expiration of one year—I consider this as an exchange of property only—It may be more productive for the present —I shall not move to it I believe; but feel a pleasure in having it in my power to take a residence so convenient to Mr. Jefferson when it may suit me. I am, Dear Sir, very respectfully yr. friend & serv't

JA^{S} MONROE.

of the United States, and that the same ought to be considered and supported as such.

"That no further progress be made in the negotiations with Spain, by the Secretary for Foreign Affairs; but that the subject to which they relate be referred to the Federal government, which is to assemble in March next."—*Secret Journal, Sept. 16, 1788.*

TO JAMES MADISON.

RICHMOND, Nov. 22, 1788.

DEAR SIR,—Your favor of the 5th was not presented me until the day before yesterday, or it should have been answer'd sooner. I think with you the act of Congress respecting the Mississippi an acquisition on that side, and therefore an happy circumstance. It must make an impression on the new government, and if the disposition of Spain sho'd be what I had reason to believe it was, before the commencement of the late unfortunate negotiation, I am persuaded an amicable adjustment upon our principles on that subject will be found an easy thing.

The arrangement of the Judiciary is the principal subject before the house. It has been agreed by all to pass by the question "whether the Judiciary may declare a law, in their opinion agnst the Constitution, void," as calculated to create heats & animosities that will produce harm. A desire prevails of amending the district court law, but in what manner has not been fully discover'd. A plan is before the house for instituting a court of appeals, as separated from the other courts, by having new members appointed from the country—this to form a court of impeachment to try the gen'l court, the latter the app'ls. The appeals to be likewise a court of dernier resort upon app'l—A conversation took place, wherein it was propos'd to take three judges of the gen'l. c't. & with the 3 chancelors from a court of app'ls as the dernier resort, and as the court of impeachment to institute one occasionally in the mode designated by the confedera-

tion for deciding territorial controversies, or somewhat in that way—The Executive to nominate 15 or any given number and to have them reduc'd to 5 by the Judges or their council & the council for the legislature striking off one each, until reduc'd to that number. The former plan is before the house and whether it will meet with opposition is uncertain.

It is generally agreed to make no other alteration in the revenue system than by such change in the appropriation as will supply the defect of the impost wh. will belong to the U. S. after March. Whether the impost system of the State shall cease then, or continue until contrary provisions are made, seems to be a doubtful question. An apprehension that other States may lay theirs aside and open their ports free from duty in the interval, has weight on the minds of some and disposes them for a similar measure, especially as they suppose the am't will belong to the U. S. but I rather believe ours will be continued until Congress directs otherwise, let the revenue accrue to whom it may. I am with real esteem y'r fr'd & servant

JA^{s}. MONROE

TO THOMAS JEFFERSON.

FREDERICKSBG, Feby. 15, 1789.

DEAR SIR,—Your favor of the 9th of August last has been rec^{d}, before this I doubt not mine of a date subsequent to those you acknowledge has reach'd you. It gave you a detail of the proceedings of the convention of this State. Since which the eleven

that have adopted the govt under the act of Congress that was necessary to put them in motion, have taken the necessary measures for its organization; except New York, whose operations have been retarded by some misunderstanding between the Senate & the other branch of the government. This obstacle will however I doubt not be remov'd, since I have reason to believe, it has on neither side any other object in view than some arrangement suited to the prejudices of the pre-existing parties of that State. The publick papers say it respects the mode of appointing Representatives.

The letter from the Convention of that State[1] was suppos'd to have suggested the mode of obtaining amendments that wod be most likely to succeed. After all the preparatory arrangements were carried for organizing the govt, it was taken up here and approv'd. In consequence whereof an application was made to the Congress of the new govt to be presented when conven'd, to call a Convention for that purpose. The weight of business that wod devolve on the Govt itself, if no other consideration might occur, was suppos'd a sufficient reason why this trust shod be repos'd in another body. It wd in no event be productive of harm, for the discussion of subjects however important by the deliberative bodies of America, create little heat or animosity except with the parties on the theatre. The draft was revis'd and

[1] The Convention of New York had, after ratifying the Constitution, unanimously passed a resolution for the call of a second convention to consider amendments, and directed a circular letter to that effect to be sent to the legislature of each State.

corrected by Bland and partakes of his usual fire and elegance.

This Commonwealth was divided into 10 districts from each of which a member was to be plac'd in the House of Representatives. A competition took place in many, and in this, consisting of Albemarle, Amherst, Fluvanna, Goochland, Louisa, Spotsylv^{a}, Orange and Culpeper, between Mr Madison and myself. He prevail'd by a large majority of about 300. It wo^{d} have given me concern to have excluded him, but those to whom my conduct in publick life had been acceptable, press'd me to come forward in this Gov^{t} on its commencement; and that I might not loose an opportunity of contributing my feeble efforts, in forwarding an amendment of its defects, nor shrink from the station those who confided in me wo^{d} wish to place me, I yielded. As I had no private object to gratify so a failure has given me no private concern.

It has always been my wish to acquire property near Monticello. I have lately accomplish'd it by the purchase of Col^{o} G. Nicholas improvements in Charlotteville & 800 acres of land within a mile, on the road to the R. fish Gap—To those of Gilmour he has added others of stone of considerable value so as to have expended in that line £2200. The land is tolerably good and great part in wood. I give him in Western property to be valued as such property wo^{d} sell upon two years credit, £2500; and if I dislike the valuation I may retain the land and pay the money at the expiration of 6 years with interest. Whether to move up immediately or hereafter when I shall be so

happy as to have you as a neighbour I have not determin'd. In any event it puts it within my reach to be contiguous to you when the fatigue of publick life, sho^d^ dispose you for retirement, and in the interim will enable me in respect to your affairs, as I shall be frequently at Charlotteville as a summer retreat, and in attendance on the district court there, to render you some service. You will I doubt not command me with that freedom the pleasure I shall have in executing your desires will authorize. Peter Carr was with me a few days since, he came from W^ms^burg for his health, having been indispos'd with the ague & fever & has found the trip of service. I think him well inform'd & a promising young man. Mr Short has entirely forgotten me—I have heard of his intention to return this year and hope he will not disappoint the wishes of his friends in that respect. I hope you will enjoy your health and that your daughters are favor'd with same blessings. I have lately heard nothing of Mr Mazzei—I fear the want of punctuality in my correspondence has lessen'd me in his esteem, a circumstance I sho^d^ much lament as I respect him for his virtues & talents. Commend me to them all and be assur'd of the sincerity with which I am your affectionate friend and servant.

JA^s^ MONROE.

TO JAMES MADISON.

FREDERICKSBURG, April [26], 1789.

DEAR SIR,—I was favor'd with yours upon my return a few days since from the districts of Staunton

& Charlotteville—which will apologize for your not hearing from me sooner. The Judges, Mrs. Monroe and our child were of the party, so that you will readily suppose there was some variety in the entertainment. The arrangement of the business of the gen'l court, into the districts, having not been accomplish'd, there was nothing to do of a civil nature, & of a criminal only at Charlotteville, where one was condemn'd & another acquitted of a charge of horse stealing.

We are happy to find that both branches of the legislature have formed a house; that the President & vice president are summon'd to fill the Executive department, and flatter ourselves that the government will immediately commence its operations.

The letter address'd to Mr. Jefferson was not enclos'd to you, but committed without a cover to the fortune of the postoffice. I mention'd I had detain'd it some days under expectation of seeing you & apprehending you had pass'd on had forwarded it thus. Not knowing what wo'd be its fate under these circumstances, in the gen'l postoffice, I requested y'r attention to it. I shall however very shortly forward another to y'r care, as likewise one to Mr. Mazzei.

Our lottery will be drawn on Wednesday next. I have marked for you the following tickets—No. 607, 608, 609, 610. I wish you success. Our best wishes to your friends in B-way. Inform them when you meet that we are in health. Sincerely I am y'r friend & servant,

JA^{S} MONROE.

TO JAMES MADISON.

RICHMOND, June 15, 1789.

DEAR SIR,—Upon my return home the other day after the close of the chancery term, I found a letter from you in the post-office, wh. had been there for some time. This will apologize for my not answering it sooner. I am again call'd here, & shall attend until the last of this month upon the gen'l & court of appeals. Mr. Jefferson we are taught to believe will visit this State in the course of the summer & reside some months at Monticello. But as his request for leave to perform this tour was, (as I have understood) presented in the interval between the dissolut'n of the late & organi't'n of the pres't gov't, whilst no one might be authoriz'd to grant it, & the season was far advanc'd before the latter event, I have fear'd the report was without foundation. Owing however to the contrary expectation together with the want of materials, I have declin'd writing him latterly. I had intended to have given Mrs. M. an opportunity of visiting her friends in N. Y'k. this year, but have latterly declin'd it. The expense of the trip & approaching heat of the season presents difficulties not to be surmounted. On my return I shall send my furniture & soon after move up to Albemarle. This I expect to accomplish in the course of the next month or certainly in August. Mrs. M. was of our party to the district court & was well pleas'd with the country. You must not expect, in return for your attention, any communicat'n of importance from me. The country furnishes nothing of the kind, & you have

intelligence from other quarters, sooner than it reaches us.

The operations of the government is the object here that engages the publick attention. As yet no act of importance has pass'd, and of course no ground laid for particular approbation or censure. In general however, so far as I have seen the effect, the discussion of the subjects that have been before you has made, it hath been a favourable one. An anxiety seems to prevail for greater dispatch, but this the more discerning are sensible must be impracticable. Before I move shall arrange the time of correspondence between us & apprise you of it. I am with real esteem, sincerely yours—

Ja^{s} Monroe.

TO JAMES MADISON.

Fredericksburg, July 19, 1789.

Dear Sir,—Your favor advising of the passage of the tonnage & impost bills by both houses, I have rec'd. It was my intention to have remov'd to Albemarle & attended the chancery next month thence, but as it will be better to have Mrs. M. here in that interval than there, where she has but few acquaintances, have postponed our removal until ab't the 15 of August.

The contest between the two houses respecting a discrimination in those bills, in favor of nations with whom we have treaties of commerce,[1] has I own ter-

[1] "Your ideas on the proposed discrimination between foreign nations coincide, I perceive, exactly with those which have governed me."—Madison, August 9, 1879.

minated contrary to my wishes—Our experience since the peace has demonstrated that whilst left to herself, without apprehension of restraint from us, we have nothing to expect from the liberality of G: B.; whether such restraint might ultimately succeed in bringing her to terms, especially with respect to the West Indies, is uncertain, but there can be no doubt that until the experiment is made we must abandon the hope. The conduct of France likewise towards us required some attention, for altho' not bound by treaty to give her any preference, even over those nations with whom we are not thus united, yet sound policy and good neighbourhood suggest the propriety of meeting her advances, as well to compensate for those benefits she has already extended to us, as in order to induce her to grant us others. The subject is however still capable of being manag'd to the best advantage—A restraint on the commerce of B. whether on her shipping or manufactures gives a bounty to France. If the latter is willing to pay the price of such a preference, and to secure the consideration on each side, it may be done thro' the Executive department of gov't. As therefore this door is still open I have hopes the object will not be given up, but that the disposition which the Representatives have shewn, may be improv'd in that line, with the aid of the Senate, for the common benefit of both nations. Will you adjourn in the course of the year? if so and you visit Virg.ª we shall be happy to see you in Albemarle.

In what state is our Mohawk aff'r?[1] A total neglect

[1] "My trip to N. Y. was occasioned chiefly by a plan concerted between Col. Monroe and myself for a purchase of land on the Mohawk. Both of us have

on our part may be prejudicial to us—He may sell to some other person & convey the land. A communication with him wo'd perhaps be proper. I was informed by Gov'r C. before I left N. Y'k that the land had appreciated at that time in his estimation ab't one dol'r p'r acre. If it had in that degree at that time and as the Eastern people have settled almost the whole of that country, tis presumable it has since, to a greater nominal amount, tho' not perhaps in equal ratio. If it is in effect an object I would willingly make a sacrifice of other property for it, but if upon a view of present circumstances, you are of opinion it is not, it wo'd be more convenient for me to direct the money to other purposes than let it lie unprofitably idle. I believe you draw one prize of £3. in this lottery—How many tickets shall I mark for you in the last class to be drawn in Sep'r? Our respects to our friends in B. W. [Broadway] when you see them.

Yr's sincerely

Ja^{s}. Monroe.

TO JAMES MADISON.

Fredericksburg, Aug't. 12, 1789.

Dear Sir,—Your favor of the 27th ult'o found me in Richmond attending the chancery whence I returned two days since. We move on Monday next to Albemarle having already sent up the principal part of our furniture &c.—You will address to me in future

visited that district and were equally charmed with it. . . . In talking of this Country sometime ago with General Washington he considered it in the same light with Monroe and myself, intimating that if he had money to spare and was disposed to deal in land, this is the very spot which his fancy had selected out of all the U. S."—Madison to Jefferson, August 12, 1786.

by the way of Richmond—our delay has been protracted too long to secure us, I fear, from the contagion incident to the lower country; as yet however we have escap'd any sensible effect, so that if it sho'd discover itself above, 'tis not improbable it may be attributed to an improper cause. The bills on ordinary subjects as trade &c appear to give general satisfaction. That to embrace the judi'y will occasion more difficulty, I apprehend, than any other, as it will form an exposition of the powers of the *gov't* itself, and shew in the opinion of those who organized it, how far it can discharge its own functions, or must depend for that purpose, on the aid of those of the States. Whatever arrangement shall be now made in that respect, will be of some duration, w'h shews the propriety of a wise provision in the commencement.

I write you in haste merely to apprize you of my departure hence & assure you of the esteem & regard with w'h I am sincerely yours—

Ja^{s} Monroe.

TO JAMES MADISON.

Richmond, March 5, 1790.

Dear Sir,—I flatter'd myself I sho'd have been able by this, to have remitted you my proportion of the balance due Mr. Taylor for the land we bought of him—but my endeavors have been ineffectual, nor do any prospects that I have, warrant a hope, I shall be able to command it, within any short period of time. Thus circumstanc'd it wo'd be more agreeable to me to disengage myself from the contract. Per-

haps it might suit you to take the whole—if so I doubt not I sho'd accede with pleasure, to whatever might be agreeable to you—otherwise it may be advisable to propose it to Mr. Taylor, as I fear it will not be in my power to raise the money in time for his purpose—nor is it agreeable to me to keep him longer in suspense. Mr. Jefferson is in town & will sit out in a day or two for New York—his daughter has been lately married to Mr. Randolph—I have nothing worthy yr. attention to give you—the measures of y'r house respecting the publick debt is the only subject of debate here—the different places[1] have their advocates—I am not myself sufficiently acquainted with either to determine on its merits—the impression, a superficial view of the subject, has made on my mind, has not engag'd its assent to either—but the subject is a difficult one, and the means are narrow & circumscrib'd, so that 'tis hardly possible to devise any plan free from exception—we beg you to remember us to our friends in B. way—I am, dear sir, with great respect & esteem, sincerely yours

JA^{s}. MONROE.

TO THOMAS JEFFERSON.

FREDB'G, June 7, 1790.

DEAR SIR,—I wrote you lately by Judge Wilson whom I accompanied to the circuit court at Charlottesville. I have since been to the chancery w^{h} clos'd as to business of consequence on Saturday. Our child who hath been dangerously ill hath so far recover'd as to admit of her removal home. We sit out thither to-

[1] For the location of the Federal Capital.

morrow, where I shall remain untill the appeals, ab: the 25th.

This will be presented to you by Mr Garnett a merchant of character & merit in this town—Whilst a resident here he was kind & attentive to me, and as a proof of my regard, I have taken the liberty to make him known to you. Accept our best wishes for your health & believe me, etc.

Jas Monroe.

TO JAMES MADISON.

Richmond, July 2, 1790.

Dear Sir,—Your favor of the 17th of June I have rec'd & am sorry to find the most important measures of Congress still remaining unsettled & in a very fluctuating state. The assumption will be disliked here from what I can learn, under any shape it can assume. Under the discussion it has rec'd, the publick mind appears to be made up on the subject, & will not readily yield to any accommodation respecting it. You, however, can best judge of these things & I only mention the above fact as one of those circumstances to be taken into the calculation in any final determination on the subject.

A bill has pass'd the gov't, I find, for settling the acc'ts of the U. S. with individual States, by w'h two Com'rs are to be added to those already in office. One will probably be taken from this State, at least I presume that will be the case. Mr. Dawson[1] has I

[1] John Dawson, Monroe's brother-in-law, and his colleague, from Spottsylvania County, in the Convention of 1788. He was at this time a member of the Executive Council.

doubt not from the friendship subsisting between you communicated his desire of that appointment. As I know him to be a young man of parts, merit & attention to business, I heartily wish him to succeed. He stands well in the publick estimation in his present office & I think his appointment wo'd be satisfactory to the publick. With my best wishes for your welfare sincerely I am yours

JA^{s} MONROE.

If you see our friends in B. way inform them their sister & niece are only in tolerable health.

TO THOMAS JEFFERSON.

RICHMOND, July 3, 1790.

DEAR SIR,—Your favor of the 20th of June I have rec^{d} & am happy to hear of y^{r} restoration to health. Mr^{s} Monroe & family are in Albemarle whither I set out in a day or two. They are well. The assumption of the State debts is dislik'd here, & will create great disgust if adopted under any shape whatever. The minds of all are made up on it, & I doubt whether even the immediate removal to the Potowm^{k} wo^{d} reconcile them to it. I merely mention this as a fact w^{h} I consider as well establish'd, without entering at present into its merits, further than to observe, that I am of opinion it is in every point of view impolitick; that its advocates have put the publick name & interests in jeopardy, & that it will be hard if they will still press forward & sacrifice these important considerations, if we do not yield upon terms which are improper. It is however much to be wish'd a revenue bill

could pass satisfactory to all parties—for this is certainly essential to the publick welfare. We still hope for the establishm^t of the seat of gov^t on the Potom^k if a permanent one is fix'd on; tho' I must confess I consider a vote to that purpose at present, to take effect hereafter, as of but little importance.

I observe a bill has pass'd for settling the claims of Individual States with the U. S. & that under it 2. com^rs are to be appointed. Virg^a will surely have a member at that b^d, if so Mr Dawson of the Council wo^d be happy in obtaining it. I have known him for sometime past and really think him well qualified for it. He is a young man of sound judgment, parts & attentive to business, & am persuaded in the discharge of that trust, wo^d merit the approbation of the government. An impression perhaps took place some years since, on his first commencement, that he was somewhat dissipated. If this was even at that time well founded, yet be assur'd it has been since done away. He has been lately appointed to Congress & the Council & in my opinion possessed of the publick confidence. As I think him fit for the station & really wish him well, & on that acc^t, as well as from a desire to avail the publick of his services, am anxious for his promotion. For this purpose I have taken the liberty to mention him to you, that so far as you concur with me in an opinion of his merit, he may be avail'd of your aid. I shall write you from Albemarle, upon a presumption you have your cipher, on a subject somewhat interesting to myself—With the best wishes for your welfare, I am, y^r affectionate friend & servant

Ja^s Monroe.

TO THOMAS JEFFERSON.

ALBEMARLE, July 18, 1790.

DEAR SIR,—My last from Richmond in ans^r to yours of the 20th of June has no doubt been rec^d The more I have reflected on the subject, the better satisfied I am of the impolicy of assuming the State debts. The diminishing the necessity for State taxation will undoubtedly leave the national gov^t more at liberty to exercise its powers & increase the subjects on w^h it will act, for that purpose, and if that were absolutely a necessary power of the gov^t, & no objections applied to the transfer itself of the publick creditors from one gov^t to the other, without their consent (for such a modification as leaves them not even a plausible alteration, amounts to the same thing, & such I understand the report to be) or to the probable inefficiency of the National gov^t comparatively with those of the states in raising the necessary funds, I sho^d perhaps have no objections to it at present. Even in our time we may hope to see the whole debt extinguish'd or nearly so, & we must be the favor'd people, if no occasion sho^d hereafter arise, that wo^d make it necessary for the gen^l gov^t to tax highly, & raise considerable revenues. Such exigency can never apply hereafter to those of the States, so that merely for the sake of preserving an equality at present, I sho^d think it useless to balance the debt, between them. But as I believe this (upon speculation only) a defect in the government, & presume thro' that medium, the prepondrance of one over the other, will be settled, I wo^d avoid throwing anything occasionally into that scale from w^h I appre-

headed most danger. On the other hand as the govt now rests on its own means for the discharge of its engagements. I wo[d] always use its powers for the purpose. nor wo[d] I indanger the publick credit rather than exercise a power, w[h] was of questionable propriety, or in some instances thought so. Thus things wo[d] have their regular course. proper experiments wo[d] be made & we sho[d] ultimately be landed where we sho[d] be. The weight of all the State creditors thrown into the national scale at present, might also perhaps produce some disorder in the system, as it wo[d] occasion a fortuitous but severe pressure from that quarter, affecting them from the heart to the extremities, before either their legislators by moderate experiments, had acquir'd sufficient knowledge for the purpose, or the people given sufficient proof of what they could, and what they would bear. Will not this from necessity, as well as policy, compell them to glean whatever they can from trade, pressing that resource upon trial likewise, beyond what perhaps for the sake of revenue, it can bear, & introducing a system of economy in other respects very oppressive on some parts of the U. States: For in the present state of Arts & industry in America, the moment that medium is pass'd, that forms the basis of a wise commerc[l] policy for the whole, disfusing its beneficial effects to every part, will it degenerate into a tyrannous sacrifice of the interests of the minority to that of the majority; and that precise medium w[h] will be most productive in point of revenue & beneficial in other respects, can only be discover'd by gradual operation & gentle experiments, which the

assumption, for the reasons above, will entirely prevent. As to the residence I will only hazard one idea. We find that for its removal to Phil.ª the representatives of that State rely on those of this & the other Southern States or some of them. They do not expect that the Eastern States will vote to remove it further from them. Place it in Phil.ª & how doth this principle apply? Will our & their members harmonize so well afterwards? Will they unite in forwarding it to Georgetown or will it not rather immediately bring about an harmony of sentiment & co-operation elsewhere? And shall we not be left dependant on a resolution of Congress which holds its tenure upon the pleasure of 8. States, who (whatever their true interests may be) have always shown they consider'd it as consisting in keeping the seat of gov.t as near home as they could? As soon as they get fix'd in Phil.ª (& the shorter the term allotted for their residence there the more active will this principle be) the representatives of that State will look with a jealous eye toward their brethren of the South. Any attempts to forward the erection of buildings at Georgeton will at first be rec.d coolly & afterwards with disgust. Common interest in this as in other respects will unite them, and we shall soon find a well form'd plan, regularly pursued, that shall be best calculated to promote them. We have often found that an union on some great question, which was consider'd as primary or ruling in the view of parties, gave a tone to their proceedings on many others. How much more reasonable then is it to expect it, when there are so

many predisposing causes to promote it? I sho^d therefore wish to see the funds appropriated & com^rs appointed to carry on the work, plac'd as completely without the reach of Congress as possible afterwards, before we acceded to anything upon this subject only. Much less wo^d I give a consideration for anything less. I hinted in my last I wo^d mention to you a subject of importance to myself in cypher—but as you expected to return to France when you left it, tis possible you omitted to bring it with you. As tis a matter w^h does not press immediately, and w^h perhaps you may conjecture, & tis possible we may meet before I come to any decision unless I have a private opportunity, I shall decline mentioning it untill one of those events takes place.[1] We are well & hope you are completely restor'd—I am, your affectionate friend & servant.

JA^s MONROE.

TO JAMES MADISON.

CHARLOTTESVILLE, July 25, 1790.

DEAR SIR,—Yours of the 4th of July was the last rec'd acknowledging mine by Mr. Garnett. Those of earlier date were answer'd from Richmond. I find you have had before you two subjects only, of consequence latterly, that part of the revenue business w'h respects the assumption of the State debts, & the fixing on some places for the temp'y & permanent seats of Congress. The latter we hear has been finally adjusted in favor of Phila. & the headwaters of the

[1] His election as Senator?

Potow'k. If this is the case, & the completion of the business committed in a sufficient manner, to the Executive department of the government, independently of the further agency of Congress, it is certainly the wisest & happiest arrangement that can be made respecting it. A great question will be ended as it sho'd be. But every thing will depend on its being completed, for if resort must be had hereafter to Congress, it will be found eventually as only the triumph of Phila. over New York, & at best not advancing a single step towards terminating the controversy or establishing a seat of permanent residence for the government. As I have not seen what shape it has ultimately rec'd, I can form no opinion on the subject & only hope it has assum'd the proper one. On the other subject I took the liberty to make a few observations in my last. No proposition that I have seen removes my objections to it, for at best, if it does not compel the industrious & complying States to pay the debts, or a part of the debts, of those who have been less deserving, it prefers the exercise of taxation in the hands of the national to those of the State governments, w'h I cannot approve. And for w'h I can see no necessity, unless it shall be shewn me, that the national gov't is answerable for the debts of the individ'l States, w'h of course I conclude they are not, till they assume them. I believe, however, a satisfactory adjustment of the other business wo'd make this more palatable here. We feel ourselves particularly oblig'd to you for y'r kindness in giving us intelligence from our friends—we never hear from them,

except where you extract a line from them. It revives Mrs. M's spirits, w'h from her long absence are often depress'd—we hope to see you here in the course of autumn—with sincere esteem & regard I am affect'y your fri'd & serv't.

Ja^s^ Monroe.

TO THOMAS JEFFERSON.

Charlottesville, July 26, 1790.

Dear Sir,—A few days past your favor of June 11. was presented me by y^r^ relation Mr G. Jefferson expressive of y^r^ friendly & benevolent wishes toward that young gentleman. Col^o^ Lewis is on a visit to Bedford, so that whatever depends on him will remain in suspense, untill his return, w^h^ will be in a few days. In the interim he will remain with me, & indeed untill he shall be comfortably establish'd in the neighbourhood. Be assur'd I shall be happy to render him every possible service in my power, being gratified with an opportunity of shewing my regard to whomever you may wish to possess it, especially so near a connection of your own.

Tis reported here that the subject of residence has rec^d^ a final decision, w^h^ has terminated in favor of the head waters of the Potow^k^ as the permanent, & Phil^a^ as the temp^y^ seat. The precise modificat^n^ has not reach'd us. If they have not plac'd it too high up the country in the 1st instance, suffer'd it to remain too long in Phil^a^ in the next, & left the erection of the buildings in some measure dependent on subse-

quent votes of Congress, I shall heartily approve of it. If they have plac'd the latter business under the direction of the Executive it will most probably succeed. If this interesting subject has been clos'd in the manner represented to us, & shall be *bona fide* executed, I shall consider it as a liberal & magnanimous trait in the operations of the govt wh will do those who discharge its functions the highest credit; and altho' I did not expect upon this subject, from their former conduct on it, such a decision, yet as nature has pass'd no inhibiting law to the contrary, I shall conclude it is the case. I am, sincerely your affectionate friend & servant

Js Monroe.

TO THOMAS JEFFERSON.

Richmond, Octr 20, 1790.

Dear Sir,—After the most mature reflection I have at length yielded to my inclinations to suffer my name to be mention'd for a publick appointment.[1] If it takes place, unless some unpleasant reflections on probable future events shod press on me, it will contribute greatly to my own & the gratification of Mrs M. as it will place us both with & nearer our friends. But to be candid there is not that certainty in the event we seem'd to suppose. Mr Harvie, Mann Page,

[1] As United States Senator to fill the vacancy caused by the death of William Grayson, March 12, 1790, Governor Harrison had appointed John Walker until the election of a Senator by the Legislature. Monroe took his seat December 6, 1790, and was re-elected at the expiration of that term.

Walker & Gov.r Harrison are in or rather will be in the nomination, and as some of them are active in their own behalf it is extremely doubtful how it will terminate. Col.o Lee & M.r Marshall are for others. How a particular character of whom we spoke is dispos'd, I know not, but other circumstances have interven'd to make his inclination in my favor more questionable. There are but few men of any might in the house & I really know none on whom I can rely with certainty. I have reason however to believe that with the body of the house I stand well; but the body, if well dispos'd, requires a head to keep it in a proper direction. I shall write further by the next opportunity & am sincerely y.r friend & servant

Ja.s Monroe.

TO THOMAS JEFFERSON.

Richmond, Oct.r 22.d 1790.

Dear Sir,—I wrote you a few days past in great hurry by the Albemarle post which I presume has been receiv'd. You have been able to collect from that communication, that my services will be offer'd for the Senate, unless upon the information of my friends it shall appear probable they will be rejected. I gave you then a detail of circumstances relative to that business, & can only now add that as far as I know it will equally suit their present situation; unless indeed the activity of some gent.n professedly candidates for that station sho.d have occasion'd a change;—one additional competitor only excepted, Col.o Lee. You will observe that I only give you

what I hear for I know nothing of myself. It is propos'd by some to continue the present gent^n untill March. I have determin'd in great measure in case of my election to abandon my profession. You find my letters contain little foreign intelligence; that I ingross the whole to myself. I may probably be up at the County Court. I am with the greatest respect & esteem sincerely your friend & servant,

JA^s MONROE.

P. S. It is also said that *Mr. Matthews* the Speaker will be nominated & the chair has latterly been a step to other offices.

TO THOMAS JEFFERSON.

FREDERICKSBURG, Novr 26, 1790.

DEAR SIR,—Since my appointment I have not before had leisure to acknowledge the rec^t of your obliging favor from Monticello. The arrangement of my business in the different courts, & other affairs, has given me full employment & detain'd me so long that it will be difficult to reach Phil^a by the day appointed for the meeting of the Congress. This however I shall attempt—& for this purpose sit out hence on Monday, unless detain'd by bad weather w^h threatens much at present. I sho^d most chearfully accept y^r kind offer to procure us lodgings upon our first arrival, if we have determin'd to proceed in the first instance to Phil^a; but tis probable we may call upon a Mr Ch^s Willing an uncle by marriage of Mr^s Monroe, where she may remain a few days, untill I shall be able to procure the necessary accomodation.

If this sho^d not be the case I shall proceed to the city tavern, from whence I shall soon be able to find you, to avail myself of y^r aid to better our situation. Mr Harris's wo^d be our object, but we sho^d only interfere with her interest, by excluding for the time more permanent lodgers. I believe we will take the rout of Annapolis & the Eastern shore. I hope to reach Phil^a on Sunday evening. I am sincerely y^r friend & serv^t

JA^s MONROE.

TO THOMAS JEFFERSON.

PHIL^A, Decr 15, 1790.

DEAR SIR,—I send you the letters mention'd last night, among w^h you will find two, from Mr Fitzhugh & Mr Page each, cover'd by one from the old gent^n his father, recommendatory of young Mr. Mortimer. He is extremely anxious to have him admitted into y^r office & under y^r care. The young man appears to be amiable in temper & manners sensible, prudent, and is well esteem'd among his acquaintance in these respects; but the two gen^tn who have mention'd him to you are better acquainted with his merits than I am, and to their subscription no addition will be requir'd of me. I told him it was probable the duties of y^r office had forc'd on you before this the disposition of appointments of this kind, so that altho. he most earnestly wishes it yet he is in some measure prepar'd to receive a negative.

With great esteem, & regard I am sincerely y^r friend & serv^t

JA^s MONROE.

TO THOMAS JEFFERSON.

PHILA., Jan'y 17, 1791.

DEAR SIR,—I wrote you soon after my arrival here relative to the wishes & pretentions of a Mr Mortimer, son of Dr. M. of Fred'b'g, to an appointment in y'r office. As I understood mine was accompanied with letters from Mr. Fitzhugh & Mr. Page I supp'd an answer wo'd have been communicated to those gent'n. Latterly I have rec'd several applications on that subject from the Dr. & his friends. I have therefore to request that you will enable me to give him satisfactory information on that point. I have just rec'd a letter from Colo. Bell who informs that Mr. & Mrs. Randolph are well. Sincerely I am y'r friend & serv't JA^s^ MONROE.

TO THOMAS JEFFERSON.

CHARLOTTESVILLE, March 29, 1791.

DEAR SIR,—When I left this for Phil^a^ last Nov^r^, from a desire to place my brother without the reach of bad example, in a quiet good family & where he might pursue his studies to the best advantage, I engag'd lodgings for him with old Mr Ja^s^ Kerr. The gen^l^ opinion of my acquaintance here, was in favor of this preference for his house & society, w^h^ was the more confirm'd on my part, from a knowledge, that I had render'd him services, & had a claim to his attention. You will readily conceive my astonishment when you hear that on my way up yesterday, I was inform'd he was married to Mr. Kerr's daughter. That

by his management the young man had been artfully kept from the society of any of my friends, & contrary to his own wishes, who urg'd the impropriety of it, had been precipitated into it before my return; although it was well known I sho^d certainly be in by this time. As I have had the care of this youth since I have been able to take care of myself; have expended much money in the previous part of his education, & hoped whatever might be the indiscretions of his early life to make him at more mature age useful to himself & to others, & particularly if any accident sho^d bereave my family of my support, to make him a parent to them as I have been to him. Believe me this has been the most heartfelt & afflicting stroke I have ever felt. If his education had been complete & himself establish'd in life, able to take care of a family, to me it wo^d have been a matter of indifference with whom he connected himself. But being yet a minor & quite unfinished in these respects the injury appears to be almost without remedy. It is likewise surprising, considering the circumstance of his minority, as that his guardianship was intrusted to me, who was daily expected, that the license was given or that the clergyman, Mr Maury, married him—however such have been the facts.

I heard yesterday evening on my arrival that Mr. & Mrs Randolph were well. I set out in the morning for the district court at Staunton. Our journey in was slow & tedious beyond our expectation. Mrs M. & child are at Fred^bg. The latter by her indisposition detain'd us almost a week at Baltimore. I am, dear Sir, very affectionately y^r friend & servant.

Ja^s Monroe.

TO THOMAS JEFFERSON.

RICHMOND, June 17, 1791.

DEAR SIR,—I have been favor'd with 2 letters from you since my arrival, with Paine's pamphlet in one, & sho^d^ have answer'd them sooner, but knew of y^r^ departure Eastward, & of course that it wo^d^ not have been sooner rec^d^. By the 25th we shall be settled in Albemarle upon my plantation, the unfinish'd state of the buildings having prevented the removal there sooner. The app^ls^ and gen^l^ court are sitting. Their respective terms will not expire so as to enable me to get home by that time, but my own business will be finished & I shall not stay longer.

Upon political subjects we perfectly agree, & particularly in the reprobation of all measures that may be calculated to elevate the government above the people, or place it in any respect without its natural boundary. To keep it there nothing is necessary but virtue in a part only (for in the whole it cannot be expected) of the high publick servants, & a true develop'ment of the principles of those acts w^h^ have a contrary tendency. The bulk of the people are for democracy, & if they are well informed the risk of such enterprizes will infallibly follow. I shall however see you in Sepr at w^h^ time we will confer more fully on these subjects.

I have been apointed in the room of Mr Pendleton with the Com^rs^ for revising the laws of this State. The appointment was communicated to me yesterday by the Executive & as it was neither wished for nor expected, I can give no information of the extent of

the duty or the time it will take to execute it. Upon the hope of completing what is expected from us before the meeting of the next Congress, I have accepted the appointment.

I am extremely anxious to procure rooms near you for the next session. If such sho^d be known to you w^h may be preingag'd, to be occupied on the commencement of the session, shall thank you to contract for them in my behalf. I shall certainly be there at that time, for having accepted this appointment I am resolved to persevere & not be directed from it by any consideration whatever. Remember me to Mr *Madison.* Mrs M. was well when I left her. With great respect & esteem I am affectionately y^r friend & servant

JA^s MONROE.

TO THOMAS JEFFERSON.

W^MSBURG, July 25, 1791.

DEAR SIR,—Your favor of the 10th found me here upon the business mention'd in my last. I left Mrs M. at Monticello to remain till my return. I have been here near three weeks,—shall leave it tomorrow on my way back. We have gone thro' the business, allotted to each his duty and are to meet again in Fred^bg on the 1st of Octr next. A part of our duty was to consolidate (when many were drawn) all the Acts on one subject—the object, to make the law more perspicuous, by drawing its scatter'd parts into one view & repealing all preceeding laws on such subject. A question arose in the Commitee whether

they were bound by this to prepare a bill conformable to the law as it stands, or provided they confin'd themselves to the subject, might propose on it any new project they thought fit. Of the latter opinion were Tazewell, Tucker & Lee, Prentis, Nelson & myself of the former. We were willing however that any member who conceiv'd the policy defective might propose a bill for the purpose of amending it, w^h^ (having the approbation of the Committee) might accompany the other, with the preference of the board, thus giving the legislature a fair alternative between them. In point of importance & labor the business is pretty equally divided between the members, but how these gent^n^ above referr'd to, particularly Tucker & Lee, will execute their part in this respect is doubtful; we shall observe the principle contended for on our part strictly. An attempt was made to protract our meeting untill that of the Assembly, to have it likewise at Richmond, with a view by management of procuring admission into the house for the purpose of supporting the report. This has been urg'd by most of them and altho the time of meeting has been yielded, yet the other object is not abandon'd. It is sought no doubt with other views by several than merely that of explaining the bills that will be submitted. Some of them certainly wish to avail themselves of such an opportunity of gaining the good wishes of that body for other purposes. The contest of Burke & Paine, as reviv'd in America with the different publications on either side is much the subject of discussion in all parts of this State. Adams is universally believ'd to be

the author of Publicola & the principles he avows, as well as those of Mr B. as universally reprobated. The character of the public officers is likewise pretty well known. At first it was doubted whether you wo^d^ not be compell'd to give your sentiments fully to the publick,—whether a respect for yourself & the publick opinion wo^d^ not require it of you. Whilst the fever was at the highest the opinion preponderated in favor of it. At present it appears unsettled, especially as Adams is not the avow'd author of Publicola, and so many writers have taken up the subject in your favor. Your other engagements w^h^ employ so much of y^r^ time necessarily, are certainly to be taken into the calculation & must have great weight. The publick opinion however will before long fully disclose itself on the subject of government, and as an opportunity has & is in some measure offer'd you to give the aid of y^r^ talents & character to the republican scale, I am aware you must have experienc'd some pain in repressing y^r^ inclinations on the subject. Your sentiments indeed, if they had been previously question'd, are made known as well by the short note prefix'd to Paines pamphlet, as a vol: co^d^ do it. Dr. Lee is almost the only man I have heard censure that pamphlet: or support that of his antagonist. Tis said however that his whole family are in harmony with him.

I am particularly thankful for y^r^ attention to our accommodation. We shall be happy in whatever you do in that respect & the more so as the nearer you place us to y^r^ self. Remember me to Mr Madison.

We are on our plantat^n surrounded by trees &^c. Very affect^y I am dear Sir, sincerely y^r friend & servant

JA^s MONROE.

TO THOMAS JEFFERSON.

PHILA., April 2, 1792.

DEAR SIR,—I have been requested by Mr. Dawson to make known to you his willingness to accept the office of Director of the Mint, to which bill the President has this day announced his assent. As my opinion of this gent'n was communicated to you on a former occasion & he is known personally to you, 'tis not necessary that I sho'd add any further on the subject. With the greatest respect & esteem, Dear Sir, Your friend & servant. JA^s MONROE.

TO THOMAS JEFFERSON.

SENATE CHAMBER, April 11, 1792.

DEAR SIR,—Be so kind as to inform me whether in consequence of our conversation respecting the nominations for command of & inferior appointments in the army, there is any executive calculation on my conduct. An opposition will probably be made to the Commander, but most certainly if there is in the most distant degree, I shall not join in it, especially as 'tis possible (as it has been hinted by King—viz ye opposition) it may not bring forward, if successful, a more suitable person. JA^s MONROE.

TO THOMAS JEFFERSON.

PHILADELPHIA, May 1, 1792.

DEAR SIR,—In April 1791 in the district Court of Fredericksburg in the case of Mitchell against Wallis, in which the law of the State was plead in bar of the debt, the following were the circumstances. Mitchell, a native of Great Britain residing and trading in Virginia, having debts due him to great amount, conveyed them with other property just before the war to the use of his creditors in Great Britain, and of one creditor in Virginia. In this situation, the debts remained through the war, and the action was brought in favor of the British Creditors in 1788 or 89, and judgment rendered for the plaintiffs. Several other judgments were entered in favor of the same parties, in that and the subsequent term. This must be deemed such a debt as was supposed to be prohibited, and provided for by the treaty. It was so argued on the part of the defendant, whose Counsel I was, and yet judgment was given against him.

I have not known of any other instances wherein the right to recover was regularly contested. It was, however, always the Opinion of the ablest Counsel at the bar, that those debts were recoverable, that no law prohibited it, and if it were otherwise, that the treaty would controul it. Since the establishment of the present government, upon the presumption there would be no further doubt on the subject, I have likewise heard several of the State Judges say they had entertained the same Opinion.

'Tis true the British Merchants declined generally bringing suits prior to that event, nor indeed have any great number been since brought in the federal courts. For the motive to this conduct, 'tis not necessary to hazard a conjecture, as your enquiries respect only the law and the decisions under it. Certain it is, they have been progressing and with great success since the peace, in the amicable adjustment of their accounts, with their debtors, which has perhaps been more effectual (admitting that there was no dispute about the recovery otherwise than other debts) than any course would have been.

The County Courts, until very lately, have had exclusive jurisdiction of sums under ten pounds only. Upon all sums above that amount, their decisions have been subject to the revision and controul of the Superior Courts. A late modification gives them original jurisdiction of sums under £30; but as well as I remember, subject as before to correction of the Superior Courts by Appeal or Supersedeas. I believe there are but few debts under that sum of the kind referred to.

In the Federal Court no cause had been put at issue until the last November term, at which time, that of Jones and Walker was argued, but continued over to the present, upon account of the absence of Judge Blair, who left the bench in consequence of the death of his Son.

I have the honor to be with great respect and esteem.

Your most Obedient

and very humble Servant.

Ja^{s} Monroe.

measure, if not altogether, exclude from it the idea of professional emolument; it connects with it however that of a perpetual presence with my family (if the expression is applicable to any thing here) and the almost uninterrupted application of my mind to objects (so far as of a political nature) equally necessary, and when diversified certainly more gratifying. I shall however endeavor to attend the districts near me, and to conduct business regularly in them; my attendance on other courts will be only occasional. In pursuit of this plan I am sorry that my plantation in Alb: is not such as I could wish it. Its position and improvements were suited to the other object, and for that they were well calculated, but for this less so, as my dependence will be more on it. I sincerely wish I could purchase a valuable plantation near there, or indeed if I co^{d} retain a seat there and procure a productive one elsewhere I sho^{d} be contented, and this perhaps may be done.

I find the general sentiment of the people, of this State against the fashionable doctrines of some persons in & about the government; founded too and supported in such manner as to forbid the prospect of any change. I have not seen nor have I heard of any display of passion but in the sober exercise of their reason they disapprove of them. I mean those doctrines which may be deemed anti-republican or which inculcate or furnish the means for the support of a government by corrupt influence, or indeed by any other than the pure interest of those who formed it. They want information of facts and seem not even to

suspect the measures that have been practical under them, but ascribe the whole to a mere difference of opinion on political questions, siding here with the republican party. The appointment of G^r Morris[1] & Wayne[2] is so generally reprobated that no one appears to vindicate it in either instance. It is said that it wo^d have been difficult to have found more unfit persons for those stations, even if some industry had been used to select them out. The excise is generally disliked; but whether any tax more acceptable could be substituted to raise the same sum I have not been able to collect. The additional impost is likewise complained of. In truth most articles of foreign growth or manufacture are raised in this state, to the prices they held in the course of the late war. How these burdens shall be lessened and the publick engagement as now modified fulfilled, will require much thought and information. Whether it sho^d be attempted at the next session or postponed for further experiment & the increased representation sho^d likewise be early examined. I expect to stay here ab^t a fortnight. Have not heard from you but am told a letter has passed for Albemarle. I found Gilmer much better: capable of taking sustenance & an appetite for it; but his voice & countenance somewhat altered. I think he will recover.

I have disposed of my carriage to Ch^s Carter (perhaps for his mother). The death of the old gent^n made it impossible, as ex^rs were not qualified &^c., to

[1] Gouverneur Morris, Minister to France.

[2] Anthony Wayne, Major General, to command the army.

take that at Germantown; but as I wished to part with mine & calculate on their engagements to furnish the money to replace it in the fall I let him have it. Our plan is to keep one in Phil^{a} & avail ourselves of some other vehicle for travelling back-w^{d} & forward between home & Phil^{a}. A chariot is rather too heavy & too valuable for that purpose. At present we have a Phæton somewhat like yours but less valuable. I have taken the liberty to enclose a note to Mr Kerr instructing him to make me a chariot by the time of our arrival there. Will you likewise be so obliging as to advise him occasionally upon its parts &^{c}. We wish it a post chariot; light, strong & neat & modified as you think fit. Divers has sent forward the money to pay for his. I informed him you were so obliging as to superintend its completion. With great respect & esteem I am, Dear Sir, very affectionately your friend & servant.

JA^{s} MONROE.

TO JAMES MADISON.

ALBEMARLE, June 27, 1792.

DEAR SIR,—I attended on the 15, according to appointment at Richmo'd to meet the gent'n, my associates, in the revision of the laws, in that business, but found only Mr. Nelson there. Mr. Lee & Mr. Tucker came ab't the 20th but predisposed not to enter on it at that place. Three days were taken up in occasional consultations about an adjournment to W'msburg w'h was advocated by the two latter & but feebly resisted by the former member. Their side of

the question derived strength from the certainty that Tazewell & Prentis serve with it, & that it would be difficult if not impossible to draw them up, even if the labor sho'd be commenced. Thus circumstanced (to unite the greater number of the com'rs & of course more effectually discharge the duties of the trust), it appeared expedient that an adjournment sho'd be no longer resisted, w'h accordingly took place for W'msb'g, the meeting there to commence on the 2d. of July next. It remained with me to determine whether I sho'd abandon the further prosecution of the business & remain at home in a more healthy climate in the pursuit of objects of a different kind or follow it up under all these disadvantages; and the result of my reflection has been in favor of the latter alternative, not however without some degree of reluctance & hesitation. As it will employ us, to complete the work for the legislature, about three weeks, making by the journey to & from, four, Mrs. M. has agreed to accompany me down. We shall sit out on Thursday, not without the most painful anticipation of the disagreeable consequences that will attend us on the trip, through so desert a country at this season of the year.

We are very much concerned that it will postpone the period of your visit here. We hope however for that pleasure immediately on our return. Our child recovered in a few days after we left you, & tho' not in perfect health has since been free from any complaint that sho'd give us any real uneasiness. I found my farm in every respect in the most miserable state

that it could be. At best but little can be said in its favor, but less industry had been used to improve its natural deformities or make it yield what it is really capable of, than might have been. Time & patience have been immemorially prescribed, as the only source of relief in difficult cases. Whether the practice of these virtues will produce in the present instance the desired effect, is questionable. Admit it might, it would notwithstanding be infinitely more agreeable independent of the profit, to apply the same labour to a more grateful soil.

I find by the papers that Clinton is re-elected the Gov'r of New York. They exhibit, however, some doubts of the solidity of his pretensions, founded on the exclusion of the votes of one of the counties upon the principle of disqualification in the returning officer. 'Tis difficult to estimate the merits of this controversy especially through the medium by which it is handed to the publick view. The friends of one have declared him duly elected, & those of the other, Lawrence, Troop &c. give as an opinion that the votes of that county sho'd be admitted and upon this I presume the election hinged. I have not sufficient data to judge of it on general principles, and 'tis not improbable that even these might be acted on by some State regulation.

I found at Richmond a general disaffection to the measures of the government prevailing; in the specification it harmonized with the sentiments of the minority. Notwithstanding which I am well satisfied that in the present state of things the soundest delibera-

tion must be used, before any attempt for a change is made. Upon the excise particularly, altho' an universal odium exists, yet it seems doubtful whether if the money must be raised, any other mode wo'd be preferred. In Goochland in a collection of several persons of character, as I pass'd down, I suggested the question & found it created some hesitation. Another mode might bring upon its authors the odium w'h now belongs to the fathers of this and if the publick censure is to be fix'd on any, who are fitter objects for it than those who have made the tax necessary. If they can obtain the end, & charge the vices of the means to others, they might perhaps disburden themselves of a load w'h now hangs heavy on them. However these are subjects w'h sho'd be leisurely examined. I only suggest them for y'r attention. I have had no leisure for it myself & shall not, till my return. I write you in haste & shall only add our best respects to y'r father & family & most friendly regards to y'rself, calculating on seeing you on our return. Very sincerely I am y'r friend & serv't

Ja^{s} Monroe.

TO THOMAS JEFFERSON.

Wm^{s}burg, July 17, 1792.

Dear Sir,—I believed I mention'd in my last that great part of my time wo^{d} be occupied in the completion of our report to the legislature, of the revision of the laws. The only act of the committee at Richmond was to adjourn here, w^{h} left me the alternative of returning home & bringing Mrs M. down with me,

or abandoning the trust altogether. Mature consideration determin'd me in favor of the former plan which has been accordingly executed, notwithstanding the distance & extreme heat of the season.

I was favored at Richmond with yours giving a statement of the votes & eventual decision upon the New York election. The declaration in favor of Clinton on the part of the convention was perhaps right, tho' it requires more accurate information of their election & sheriff laws to determine it than I possess. How far he might with propriety have declin'd the appointment, without an imputation upon the rectitude of the canvassers, seems doubtful—or what wo^{d} have been the intermediate condition of the gov^{t}, who have discharged the Executive functions, whether the legislature must have been convened to relieve them from the dilemma, are circumstances which merited attention & no doubt had weight in the decision. The terms however upon which he has accepted his re-election, are not flattering to him and cast an air upon the whole proceeding, which how fair soever it may have been, will give the adversary party an advantage they will not fail to avail themselves of. Certain it is with respect to this gent^{n}, that altho' as a center of union to the republican party in that State it may be necessary to support him, yet there are traits in his character and particularly that of extreme parsimony, which are highly exceptionable. No one w^{d} point to him as a model for imitation; but comparatively with others in that quarter, & especially his late competitor & confrere, I have no hesitation

which to prefer. If an unequivocal fact is known & principles understood, altho' in some respects vicious, yet in any given situation you can determine his course and as the effect of the alloy may be ascertained, it may be guarded against. To some few there are as little doubts of the political principles of the other gent^n^ as of this, but they are not generally known, and therefore his advancement the more objectionable.

Whether things have reached their height in the division of parties, relative to gov^t^ in America, and will have a regular course hereafter in favor of the principles of either seems doubtful. That the partizans for monarchy are numerous & powerful, in point of talents and influence is in my estimation certain. Even the list of those who have been & perhaps still are active is formidable. That of those who temporize between the conflicting interests, and whose weight is of course, under the pious cloak of federalism thrown into that scale, is I fear equally so. To be passive in a controversy of this kind, unless the person had been bred a priest in the principles of the Romish church, is a satisfactory proof he is on the wrong side. Indeed if imbecility & indecision have characterized them thro' life, in their impotence, they might find some excuse. But if they had taken a part on the great field which America has furnished for 16. or 17. years past, how can they justify a supineness & inactivity on the present occasion? When principles of government, so far as their effect depends on the great mass of the society who are

generally uninformed, take their tone from the opinions of those whom they have been long accustomed to look up to as their leaders, is it a sufficient justification in withholding their sentiments for such to say they leave them to their own operation? As this class however will go with that side which preponderates, policy dictates to count them on the republican list. Something may be gained by it & nothing can be lost.

I am well satisfied the republican scale will prevail, but consider its preponderance by no means as completely established yet. What subject may be furnished by the assailing party (for the monarchic has been so heretofore) remains for the next session to shew. If it appears that ground has been gained in the H. of R., it must be considered as a sure indication of the publick sentiment, for that sentiment, if republican, will be resisted by a strong party in both branches of the legislature as long as it can be with safety to themselves. Altho' in this State the decided vote of the majority wo^{d} be in all cases of the kind, as it sho^{d} be, yet tis most certain that there is a strong party in favor of the opposite interest. Many of those who censure the measures of the present administration, & by that means have advanced themselves in the publick estimation, are in this class. The publick are not sufficiently informed upon these heads & it will yet take time to make them so.

I have no news to give you from this quarter that can be interesting. This town seems to be agitated by the competition between two gen^{tn} Mr Bracken (the

former professor) & M[r] Henderson, for the professorship of humanity, the visitors having reestablished it. The character of the former you know. The latter is a well informed man of good reputation & who now officiates. The reestablishment of that professorship has brought back to the college a great number of small boys, but in other respects it has experienced no remarkable change. Its funds are respectable & its president a capable & industrious man yet its services to the community less important than might be expected. May we not hope as the country becomes exonerated from debt, publick & private, some considerable advance may be made for the establishment of such an institution elsewhere? With great respect, & esteem I am, dear Sir, sincerely your friend & servant. JA[s] MONROE.

TO JAMES MADISON.

ALBEMARLE, Sept. 18, 1792.

DEAR SIR,—I returned last night having made a long and fatiguing journey through the rain. Your servant soon after presented to me y'r favor with its inclosures. I sent off on Saturday the packet to Dunlap so that on Thursday night it will be rec'd & may be published on Saturday next. I inserted the paragraph I had first written, & made the conclusion rather more pointed introducing the extracts, making the writer & the person to whom written perfectly passive in regard to the publication stating indeed that I had obtained them from the latter & wo'd make

them accessible to others if necessary. The continuation sho'd immediately follow but I am greatly oppressed with the fatigues of the journey & shall be much occupied during the court, so that I fear I shall not be able to turn the incident to that acc't in every view its importance wo'd admit of. Whether pointed allusions to the Sec'y of the tre'y wo'd be proper & dignified as relating to the subject, the character to be vindicated, or derogatory, is a question of some delicacy. Certain it is that the field is open for a general discussion of the measures of the gov't, and will not I suspect be avoided on the other side. We sho'd be prepared therefore to point out the errors & support the exceptions. The impression that the establishment of banks by making a capital of credit, that the introduction of foreign money to buy certificates has added to the solid wealth of the country, is strong with many men; and who in the contemplation of a publick benefit are willing to pardon the enormities of individuals who, abusing publick trusts, have given private emoluments. The system sho'd, therefore, be reviewed fully if at all & I hope you will turn your attention to it. I had some private conversation with Innes who is perfectly right. But from what I co'd learn some others engaged in speculation are as decidedly wrong. Things stand now in such a situation that the scale will soon preponderate one way or the other. At Richm'd it is conceived that the fate of election of V. P. will in a great measure affect the question & that his opponents are in some sort embarked before the publick

ag'nst him. This I suppose they have gathered from the north. I write in haste. Very affectionately I am y'r friend & serv't,

JA^{S} MONROE.

TO JAMES MADISON.

Oct. 9, 1792.

DEAR SIR,—The bearer delivered me the inclosed last night addressed to you and myself from M. Smith and M. Willet of New York. I have prevailed on him to convey it personally to you, assuring him that no partial or separate answer co'd be given.[1]

You will find it proposes to substitute Mr Burr to Gov'r Clinton as the candidate of the republican interest, in the contest for the office of V. President. Altho' he does not appear to be in higher confidence than that of a respectable express, yet from what he has said to me I find he knows the purport of his message—and that he was intrusted with a similar

[1] In connection with this subject, Madison had also received the following letter: PHILAD^{A} Octr 3 1792. SIR,—I take the liberty of addressing you by the Bearer on a subject which concerns the republican interests of the United States. Those in that interest I believe pretty generally desire a change in the vice presidency of the United States at ensuing election, and at the first Governor Clinton was thought of to succeed him; however the circumstances of the State in which he presides combined with his own wishes induced us here to agree to the Honble. Mr. Burr whose talents, abilities and firmness of character are I believe fully equal, with a prospect of some accessional Strength from Middle and Eastern States which would not be given to Clinton. The people here however only desire a communication with their southern brethren on the subject and although they would I believe generally prefer *Burr* to *Clinton* will unite in either that will be thought most likely to succeed, for although Clinton wishes to decline in favor of Burr he does not absolutely refuse to serve if elected. With high respect I have the honor to be Sir your most obedt servant, JN^{O} NICHOLSON

com'n for some gentl'n in Penn'a & elsewhere, particularly to the south. This I presume he has collected from the open manner in which the business has been conducted in New York. This letter will account for my not receiving an earlier answer to that written from Phil'a to Mr. Smith. In short it appears clear, that either from the disinclination of Clinton to embark in the business, the desire of his friends to keep him where he is, in the preference given Burr, that 'tis the wish of those in that State desirous of a change, to rest the prospect on the latter; and it remains for us to determine what reply shall be given them.

My opinion is briefly this; that if Mr. Burr was in every respect inexceptionable it would be impossible to have him elected. He is too young, if not in point of age, yet upon the public theatre, to admit the possibility of an union in his favor. If formed at all, it must be upon the recommendation & responsibility of particular characters in the several States; & if this co'd succeed it wo'd be an unpleasant thing to those who would stand as sponsors. But for an office of this kind it could not, nor sho'd it succeed. Some person of more advanc'd life and longer standing in publick trust sho'd be selected for it, and particularly one who in consequence of such service had given unequivocal proofs of what his principles really were. A person who had marked a line of conduct so decisively that you might tell what he would be hereafter by what he had been heretofore. To place this gent'n, or any other of his standing in the chair of the present incumbant, wo'd not be well thought of in

America; nor wo'd it produce the desired effect; for some compunction always attends the rejection of an old servant, especially when accompanied with any kind of reproach. To lessen this if the ground of exception is well founded, the person preferred sho'd in that respect, at least, be universally known to be sound, and to balance in other respects against him as nearly as possible an equal weight of character. Having this impression I consider the effort in New York in his favor as highly injudicious & improper, & which if persisted in will certainly defeat the object. The particular arrangement of things there it might perhaps suit well enough; but they sho'd not endeavor to make the more important interests of the union subservient to their accommodation—The path, however, to be pursued is difficult to be marked. 'Tis manifest that no steps have been taken by them to forward the object to the Eastward, or even perhaps in New York, and whether the step now taken, if attainable before, has not embarrassed it so as to render it impracticable, is doubtful. An answer, however, to their letter will be expected & this must either be given by this messenger, or a message sent by him, perhaps a written one to the gentl'n, signed by both, that as soon as we meet, w'h will be soon, we will answer it fully. I think the sooner they are apprized of our opinion the better it will be, for if evaded the effort will be continued as at present; and unless we join in, it sho'd be discountenanc'd. If such sho'd be the result it will place us in a disagreeable dilemma with Mr. Burr, but this must be removed by the most soothing assurances

of esteem & confidence on our parts, resting it altogether on his youth &c. I am, however, disposed to concur with you in whatever you think best, & will subscribe any letter you may write, for I am persuaded from past conversations we shall not disagree.

I enclose you the papers containing the extracts of Mr. Jefferson's letters, with a continuation of the attack upon him, in terms rather more abusive—written, tho' disguised, I suspect all by the same hand. Shall thank you to return them by him. The piece you read me will be applicable now. I heartily wish you wo'd come down as soon as possible.

If the idea of Clinton sho'd be abandoned what shall be done? This, however, we can do nothing in at present. Sincerely I am y'r friend & serv't

JA^{S} MONROE.

FRIDAY, Oct'r 9, 1792.

Afloat as the business is with the certainty of reproach from that party let the event be what it may, I sho'd not hesitate to aid Burr in opposition to Adams. If he co'd succeed, it might have its good effects and co'd not possibly do any mischief—so that in truth 'tis very difficult to act, informed as we now are, with propriety.

TO THOMAS JEFFERSON.

FREDERICKSBURG, Octo^{r} 16, 1792.

DEAR SIR,—You have before this I presume heard of the death of Col^{o} Ge^{o} Mason w^{h} was ab^{t} the 8th of this month of the gout in the stomach. His patriotic virtues thro the revolution will ever be remembered by

the citizens of this country, and his death at the present moment will be sensibly felt by the republican interests. We intended to have rested a day or two with him on our way, and this event will probably render us a day sooner in Phil.ª

We expect Mr. Madison here to-morrow & to set out on the 20th together. We may possibly stay a day at Mount Vernon, so that avoiding accidents we shall be in Phil.ª certainly by the 28 or 30th.

R. H. Lee has notified to the Assembly his determination to withdraw from his present station[1] & in consequence thereof they have fixed on the 15th to supply his place; the term of his successor to commence immediately after the election. Dr. Lee, Harvie, & F. Corbin were mentioned to me by the last post, as the only competitors. I think it probable some other person may be brought forward, but this is conjecture only.

I hear from Mr. Beckly there is no prospect of comfortable accommodations upon reasonable terms. I had hoped that one of Seckells houses might have been finished but presume 'tis not the case. However, we will be there in time to look out before the commencement of the session. We shod like (provided we cannot accommodate ourselves agreeably in your neighborhood) to get the house Burr lived in last winter. I think he told me he did not intend to keep it. Perhaps if Mr. Eppes is with you he might collect the necessary information by the time we get there.

[1] Senator from Virginia.

Shall thank you to send the enclosed to the coach maker, Mr Kerr—I am, etc.,

JA^s^ MONROE.

TO THOMAS JEFFERSON.

PHILADELPHIA, Novr 21, 1792.

DEAR SIR,—Yesterday in concert with Mr. Izard, to whose wishes I am forced to accommodate, I agreed to the postponement of the report upon weights & measures untill the first Monday in Dec^r^, that Mr Rittenhouse might in the meantime make the experiment of the rod.[1] It was moved by Mr Ellsworth & seconded by Mr Read to postpone it untill the next session, but withdrawn upon this motion—Mr Sherman objected to delay with a view of going into the temporary plan suggested in y^r^ report. To this idea many seem to incline—but all are willing to have the subject discussed, & I particularly wish that Mr R. wo^d^ turn his attention to the above object & furnish a satisfactory result in time. Very affec^y^ etc.

JA^s^ MONROE.

TO THOMAS JEFFERSON.

PHIL^A^, Jan'y 3, 1793.

DEAR SIR,—My St. Croix friends have mentioned that it might reach you, that a Mr. Durant wo'd be more acceptable there as Mr. Yard's successor than any other person[2]—The inclosed letter respects the

[1] David Rittenhouse was at this period Director of the Mint, having been nominated by Washington April 13th.

[2] Henry Cooper, of Pennsylvania, succeeded James Yard.

pretensions of another gent'n for another place & which I have thought expedient to submit to y'r inspection—Sincerely I am y'r affectionate friend & serv't. JA^S^ MONROE.

TO THOMAS JEFFERSON.

PHIL^A^, Jany. 14, 1793.

DEAR SIR,—I have just heard it stated here that the suspension of the payments to France was in the first instance by Mr Short before the commencement of Mr Morris's service & without orders from this place & that the latter only conformed to a rule shewn him, implicating strongly that there never had been any direction from this quarter on the subject. This statement was given by Cabot upon an interrogation of Mr Adams—If you can give me the facts (without y^r^ appearing in it) they may be communicated here.

Yr^s^ affecy.

JA^S^ MONROE.

TO THOMAS JEFFERSON.

PHILADELPHIA, Jan'y 30, 1793.

DEAR SIR,—Mr. Gunn has mentioned to Major Butler[1] the report that his conduct at New York upon some publick questions was influenc'd by some expectations of a foreign mission. He has called on Hamilton whom he did not see but means to chastise those concerned in the charge. Hamilton informed him, at the time it took place, that the appointment of Short

[1] Col. James Gunn, of Georgia, and Major Pierce Butler, of South Carolina.

was at y'r instance contrary to his wishes, and that he wanted the President to appoint him (viz Major Butler). As he means to call on you immediately as a friend to confer on this subject I have thought proper to apprize you of the above. Y'rs affec'y

JA^{S} MONROE.

TO THOMAS JEFFERSON.

BALTIMORE, March 22, '93.

DEAR SIR,—This will be presented you by Judge Symes of the western territory, with whom I served in the former Congress & whom I deem a sensible & honest man. He was of service in repelling the attack upon the Mississippi in 1785 by Gardoqui & comp^{y}[1] as he is well acquainted with the aff^{rs} of that country I have thought it might be useful for you to know him.

We arrived here last night, the roads having almost exhausted ourselves & horses. We stay to-day & move on to-morrow early.

JA^{S} MONROE.

TO THOMAS JEFFERSON.

FREDERICKSBURG, March 27, 93.

DEAR SIR,—We arrived here on the 25. & set out tomorrow for Albemarle. We have had a more comfortable trip than could well have been expected.

[1] John Cleves Symes was a delegate from New Jersey, 1785–86, and opposed the proposition made in Congress to yield our right to the navigation of the Mississippi, for a term of years. He was appointed Judge of the Western Territory, Feb. 19, 1788.

former professor) & Mr Henderson, for the professorship of humanity, the visitors having reestablished it. The character of the former you know. The latter is a well informed man of good reputation & who now officiates. The reestablishment of that professorship has brought back to the college a great number of small boys, but in other respects it has experienced no remarkable change. Its funds are respectable & its president a capable & industrious man yet its services to the community less important than might be expected. May we not hope as the country becomes exonerated from debt, publick & private, some considerable advance may be made for the establishment of such an institution elsewhere? With great respect, & esteem I am, dear Sir, sincerely your friend & servant. Jas Monroe.

TO JAMES MADISON.

Albemarle, Sept. 18, 1792.

Dear Sir,—I returned last night having made a long and fatiguing journey through the rain. Your servant soon after presented to me y'r favor with its inclosures. I sent off on Saturday the packet to Dunlap so that on Thursday night it will be rec'd & may be published on Saturday next. I inserted the paragraph I had first written, & made the conclusion rather more pointed introducing the extracts, making the writer & the person to whom written perfectly passive in regard to the publication stating indeed that I had obtained them from the latter & wo'd make

them accessible to others if necessary. The continuation sho'd immediately follow but I am greatly oppressed with the fatigues of the journey & shall be much occupied during the court, so that I fear I shall not be able to turn the incident to that acc't in every view its importance wo'd admit of. Whether pointed allusions to the Sec'y of the tre'y wo'd be proper & dignified as relating to the subject, the character to be vindicated, or derogatory, is a question of some delicacy. Certain it is that the field is open for a general discussion of the measures of the gov't, and will not I suspect be avoided on the other side. We sho'd be prepared therefore to point out the errors & support the exceptions. The impression that the establishment of banks by making a capital of credit, that the introduction of foreign money to buy certificates has added to the solid wealth of the country, is strong with many men; and who in the contemplation of a publick benefit are willing to pardon the enormities of individuals who, abusing publick trusts, have given private emoluments. The system sho'd, therefore, be reviewed fully if at all & I hope you will turn your attention to it. I had some private conversation with Innes who is perfectly right. But from what I co'd learn some others engaged in speculation are as decidedly wrong. Things stand now in such a situation that the scale will soon preponderate one way or the other. At Richm'd it is conceived that the fate of election of V. P. will in a great measure affect the question & that his opponents are in some sort embarked before the publick

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ag'nst him. This I suppose they have gathered from the north. I write in haste. Very affectionately I am y'r friend & serv't,

JA^{S} MONROE.

TO JAMES MADISON.

Oct. 9, 1792.

DEAR SIR,—The bearer delivered me the inclosed last night addressed to you and myself from M. Smith and M. Willet of New York. I have prevailed on him to convey it personally to you, assuring him that no partial or separate answer co'd be given.[1]

You will find it proposes to substitute Mr Burr to Gov'r Clinton as the candidate of the republican interest, in the contest for the office of V. President. Altho' he does not appear to be in higher confidence than that of a respectable express, yet from what he has said to me I find he knows the purport of his message—and that he was intrusted with a similar

[1] In connection with this subject, Madison had also received the following letter: PHILAD^{A} Octr 3 1792. SIR,—I take the liberty of addressing you by the Bearer on a subject which concerns the republican interests of the United States. Those in that interest I believe pretty generally desire a change in the vice presidency of the United States at ensuing election, and at the first Governor Clinton was thought of to succeed him; however the circumstances of the State in which he presides combined with his own wishes induced us here to agree to the Honble. Mr. Burr whose talents, abilities and firmness of character are I believe fully equal, with a prospect of some accessional Strength from Middle and Eastern States which would not be given to Clinton. The people here however only desire a communication with their southern brethren on the subject and although they would I believe generally prefer *Burr* to *Clinton* will unite in either that will be thought most likely to succeed, for although Clinton wishes to decline in favor of Burr he does not absolutely refuse to serve if elected. With high respect I have the honor to be Sir your most obedt servant, JN^{O} NICHOLSON

com'n for some gentl'n in Penn'a & elsewhere, particularly to the south. This I presume he has collected from the open manner in which the business has been conducted in New York. This letter will account for my not receiving an earlier answer to that written from Phil'a to Mr. Smith. In short it appears clear, that either from the disinclination of Clinton to embark in the business, the desire of his friends to keep him where he is, in the preference given Burr, that 'tis the wish of those in that State desirous of a change, to rest the prospect on the latter; and it remains for us to determine what reply shall be given them.

My opinion is briefly this; that if Mr. Burr was in every respect inexceptionable it would be impossible to have him elected. He is too young, if not in point of age, yet upon the public theatre, to admit the possibility of an union in his favor. If formed at all, it must be upon the recommendation & responsibility of particular characters in the several States; & if this co'd succeed it wo'd be an unpleasant thing to those who would stand as sponsors. But for an office of this kind it could not, nor sho'd it succeed. Some person of more advanc'd life and longer standing in publick trust sho'd be selected for it, and particularly one who in consequence of such service had given unequivocal proofs of what his principles really were. A person who had marked a line of conduct so decisively that you might tell what he would be hereafter by what he had been heretofore. To place this gent'n, or any other of his standing in the chair of the present incumbant, wo'd not be well thought of in

America; nor wo'd it produce the desired effect; for some compunction always attends the rejection of an old servant, especially when accompanied with any kind of reproach. To lessen this if the ground of exception is well founded, the person preferred sho'd in that respect, at least, be universally known to be sound, and to balance in other respects against him as nearly as possible an equal weight of character. Having this impression I consider the effort in New York in his favor as highly injudicious & improper, & which if persisted in will certainly defeat the object. The particular arrangement of things there it might perhaps suit well enough; but they sho'd not endeavor to make the more important interests of the union subservient to their accommodation—The path, however, to be pursued is difficult to be marked. 'Tis manifest that no steps have been taken by them to forward the object to the Eastward, or even perhaps in New York, and whether the step now taken, if attainable before, has not embarrassed it so as to render it impracticable, is doubtful. An answer, however, to their letter will be expected & this must either be given by this messenger, or a message sent by him, perhaps a written one to the gentl'n, signed by both, that as soon as we meet, w'h will be soon, we will answer it fully. I think the sooner they are apprized of our opinion the better it will be, for if evaded the effort will be continued as at present; and unless we join in, it sho'd be discountenanc'd. If such sho'd be the result it will place us in a disagreeable dilemma with Mr. Burr, but this must be removed by the most soothing assurances

of esteem & confidence on our parts, resting it altogether on his youth &c. I am, however, disposed to concur with you in whatever you think best, & will subscribe any letter you may write, for I am persuaded from past conversations we shall not disagree.

I enclose you the papers containing the extracts of Mr. Jefferson's letters, with a continuation of the attack upon him, in terms rather more abusive—written, tho' disguised, I suspect all by the same hand. Shall thank you to return them by him. The piece you read me will be applicable now. I heartily wish you wo'd come down as soon as possible.

If the idea of Clinton sho'd be abandoned what shall be done? This, however, we can do nothing in at present. Sincerely I am y'r friend & serv't

JA^{s} MONROE.

FRIDAY, Oct'r 9, 1792.

Afloat as the business is with the certainty of reproach from that party let the event be what it may, I sho'd not hesitate to aid Burr in opposition to Adams. If he co'd succeed, it might have its good effects and co'd not possibly do any mischief—so that in truth 'tis very difficult to act, informed as we now are, with propriety.

TO THOMAS JEFFERSON.

FREDERICKSBURG, Octo^{r} 16, 1792.

DEAR SIR,—You have before this I presume heard of the death of Col^{o} Ge^{o} Mason w^{h} was ab^{t} the 8th of this month of the gout in the stomach. His patriotic virtues thro the revolution will ever be remembered by

the citizens of this country, and his death at the present moment will be sensibly felt by the republican interests. We intended to have rested a day or two with him on our way, and this event will probably render us a day sooner in Phil.ª

We expect Mr. Madison here to-morrow & to set out on the 20th. together. We may possibly stay a day at Mount Vernon, so that avoiding accidents we shall be in Phil.ª certainly by the 28 or 30th.

R. H. Lee has notified to the Assembly his determination to withdraw from his present station[1] & in consequence thereof they have fixed on the 15th. to supply his place; the term of his successor to commence immediately after the election. Dr. Lee, Harvie, & F. Corbin were mentioned to me by the last post, as the only competitors. I think it probable some other person may be brought forward, but this is conjecture only.

I hear from Mr. Beckly there is no prospect of comfortable accommodations upon reasonable terms. I had hoped that one of Seckells houses might have been finished but presume 'tis not the case. However, we will be there in time to look out before the commencement of the session. We shod. like (provided we cannot accommodate ourselves agreeably in your neighborhood) to get the house Burr lived in last winter. I think he told me he did not intend to keep it. Perhaps if Mr. Eppes is with you he might collect the necessary information by the time we get there.

[1] Senator from Virginia.

Shall thank you to send the enclosed to the coach maker, Mr Kerr—I am, etc.,

JA^s^ MONROE.

TO THOMAS JEFFERSON.

PHILADELPHIA, Novr 21, 1792.

DEAR SIR,—Yesterday in concert with Mr. Izard, to whose wishes I am forced to accommodate, I agreed to the postponement of the report upon weights & measures untill the first Monday in Dec^r^, that Mr Rittenhouse might in the meantime make the experiment of the rod.[1] It was moved by Mr Ellsworth & seconded by Mr Read to postpone it untill the next session, but withdrawn upon this motion—Mr Sherman objected to delay with a view of going into the temporary plan suggested in y^r^ report. To this idea many seem to incline—but all are willing to have the subject discussed, & I particularly wish that Mr R. wo^d^ turn his attention to the above object & furnish a satisfactory result in time. Very affec^y^ etc.

JA^s^ MONROE.

TO THOMAS JEFFERSON.

PHIL^A^, Jan'y 3, 1793.

DEAR SIR,—My St. Croix friends have mentioned that it might reach you, that a Mr. Durant wo'd be more acceptable there as Mr. Yard's successor than any other person[2]—The inclosed letter respects the

[1] David Rittenhouse was at this period Director of the Mint, having been nominated by Washington April 13th.

[2] Henry Cooper, of Pennsylvania, succeeded James Yard.

pretensions of another gent'n for another place & which I have thought expedient to submit to y'r inspection—Sincerely I am y'r affectionate friend & serv't. JA^S^ MONROE.

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PHIL^A^, Jany. 14, 1793.

DEAR SIR,—I have just heard it stated here that the suspension of the payments to France was in the first instance by Mr Short before the commencement of Mr Morris's service & without orders from this place & that the latter only conformed to a rule shewn him, implicating strongly that there never had been any direction from this quarter on the subject. This statement was given by Cabot upon an interrogation of Mr Adams—If you can give me the facts (without y^r^ appearing in it) they may be communicated here.

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DEAR SIR,—Mr. Gunn has mentioned to Major Butler[1] the report that his conduct at New York upon some publick questions was influenc'd by some expectations of a foreign mission. He has called on Hamilton whom he did not see but means to chastise those concerned in the charge. Hamilton informed him, at the time it took place, that the appointment of Short

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BALTIMORE, March 22, '93.

DEAR SIR,—This will be presented you by Judge Symes of the western territory, with whom I served in the former Congress & whom I deem a sensible & honest man. He was of service in repelling the attack upon the Mississippi in 1785 by Gardoqui & comp^{y}[1] as he is well acquainted with the aff^{rs} of that country I have thought it might be useful for you to know him.

We arrived here last night, the roads having almost exhausted ourselves & horses. We stay to-day & move on to-morrow early.

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FREDERICKSBURG, March 27, 93.

DEAR SIR,—We arrived here on the 25. & set out tomorrow for Albemarle. We have had a more comfortable trip than could well have been expected.

[1] John Cleves Symes was a delegate from New Jersey, 1785–86, and opposed the proposition made in Congress to yield our right to the navigation of the Mississippi, for a term of years. He was appointed Judge of the Western Territory, Feb. 19, 1788.

Mr Madison informed you from Alex^a^ of the fate of several elections since w^h^ we have heard that Mr New of Caroline was preferred to Corbin of Midẽsex. Heth for the Northumberland district—Walker for Albemarle (the latter only a rep^t^) If we sho^d^ hear of any others you will be informed by Mr Madison before we set out.—Mr M. without opp^n^ for Orange.

In every respect, so far as we have heard, we find the publick mind perfectly sound in regard to those objects of national policy, at present most interesting. Every member is either as he sho^d^ be, or has gained his place by fraud & imposition.

We find likewise the sentiment universal in favor of y^r^ continuance thro' the present crisis and of course that a contrary conduct wo^d^ have proved a publick as well as a very serious private detriment to y^r^self. Be so kind as send the enclosed to Mr Beckley & believe me, affectionately y^r^ friend & servant.

JA^s^ MONROE.

TO THOMAS JEFFERSON.

FREDERICKSBURGH, May 8th, 1793.

DEAR SIR,—I came here a few days past to attend the district court and shall leave this place on the 10th for the ch^y^ in Richmond w^h^ commences on the 12. In Charlottesville in the case of Barrett the verdict & judgm^t^ were against you, deducting the interest as you had proposed during the war. He had no proof except that of Col^o^ Lewis to establish his claim (at the trial). Upon conferring with this latter gent^n^ I found he had

an imperfect recollection of what had passed between him & Barrett, whether he had refused to pay him the whole interest, as well during as since the war, and upon shewing him the paper containing y^r^ instruction, & upon w^h^ his proposition must have been founded, he expressed a wish it might be shewn the court & jury in the trial, as he could not say he had made any other proposal, & the presumption would then be satisfactory that he had not. To this I agreed. Upon the trial I took the opinion of the court whether, without my consent they could avail themselves of Col^o^ Lewis's evidence, he being y^r^ trustee—which was that they could not. I then admitted it with an assurance to the c^t^ & jury, that if the claim could in any mode be established it would be allowed. Col^o^ Lewis referred to the paper in my possession & w^h^ I then produc'd, making it a point whether that paper amounted to an assumpsit, being only a conditional proposition, with an absolute decl^n^ you did not believe the debt was due. Tucker was of opinion it was no assumpsit. Roane doubted, but both were of opinion it might go to the jury—and their verdict was founded upon y^r^ apparent willingness to pay it under certain modifications, w^h^ were regarded in it. I moved the court for a new trial, as against evidence, & it lay over till the next day. Then Roane had left the bench for the residue of the term. Finding that if the verdict had been in y^r^ favor, you were resolved to pay the money, in case Barrett wo^d^ prove his acc^t^, by affidavit only, & he upon conference assuring me that he wo^d^ not only do it in that mode, but by some orders, he was well assured

you had forgotten, I saw no benefit resulting from a success in the motion for a new trial especially as in any event you wo^{d} be forced to pay y^{r} costs of y^{r} proceedings. I then proposed to Barrett that if he would permit me to state to the court that if he had known the real contents of y^{r} instruction to Col^{o} Lewis (for he declares that Col^{o} Lewis had refused to pay any interest) he never wo^{d} have brought suit against you, but waited y^{r} accommodation, I wo^{d} withdraw y^{r} motion, & to w^{h} he agreed; observing further that he knew nothing of the transaction ab^{t} Shey's bond untill after the suit was over. That it was bought up by a brother of his,—suit bro^{t}, & every operation conducted by his brother & absolutely without his knowledge. I accordingly stated the aff^{r} as above agreed & withdrew the motion. Barrett said he wo^{d} wait till the fall for the money but expected interest of w^{h} I informed him I wo^{d} advise you. Of your other business I will write you from Richmond.

In my route I scarcely find a man unfriendly to the French revolution as now modified. Many regret the unhappy fate of the Marq: of Fayette, and likewise the execution of the King. But they seem to consider these events as incidents to a much greater one, & which they wish to see accomplished. The sphere of the opposite policy may be considered (exclusive of the tory interest of the late war) as confined to Alex^{a} a city which certainly comprehends no enlightened man, and Richmond. At the bar here two gent^{n} only are in this sentiment, Ch^{s} Lee & Bushrod Washington. The former of Alex^{a} & the latter Richm^{d} and

'tis manifest that their opposition to the general sentiment of their country, is not confined to the principles of the French revolution only, but extends to the general policy of the representation in Congress, & particularly the late proceedings & enquiries respecting the use & application of the publick monies. It was declared, by the former, and in a manner that shewed it was no recent conception, that Mr Madison in stating the disobedience of the Secry. of that department to the orders of the President, had placed the merits of the controversy on an improper footing. Col. Mercer, who conducted the argument against him, affirmed the contrary, with other declns expressive of the strongest disapprobation of his conduct & distrust of his rectitude.

I left Mrs M. in Alb: not well recovered from the fatigue of the journey but in other respects tolerably well. Mr Randolph & family were & had been absent since our return. Gilmer & others well. You have probably heard of a charge of a very heinous kind agñst R Rand: & that before the examining Court he was acquitted, 12 to 2 of the Majistrates in his favor, & upon the question for his enlargement. The accts here are universally in his favor, & seem to have removed impressions that were before deeply fixed— Very affey I am yr friend & servant

Js Monroe.

P. S.—I have not recd a line from any person there since I left Phila

TO JAMES MADISON.

ALBEMARLE, May 18, 1793.

DEAR SIR,—I have just returned home from an attendance on the courts at Fred'b'g & Richmond & promise myself repose at least for a short time—I called on Colo. Taylor[1]—from whom I enclose you a letter. I find he had been very busily employed upon some subjects of an interesting nature since he reached home—He has written near 60 (56 I believe) folio pages upon the subject of the bank and the funds, in which I found many useful & judicious observations addressed in his humorous style concluding in the sentiment that the banks sho'd be demolished & proprietors of the latter excluded from the publick councils. His idea is that it be published in a pamphlet & ab't the commencement of the next session —I think it may be much curtailed & in some instances strengthened—he proposes to forward it to you as soon as transcribed—for that purpose—It has been revised by Mr. Pendleton & approved—He says that altho' the old gent'n was right in the outline of his politicks yet he had no idea of the extent to which things had been hurried or of the turpitude which had obtained in the publick councils.

I saw Giles[2] and Parker[3] in Richmond—they were

[1] John Taylor, "of Caroline." He succeeded Richard Henry Lee as U. S. Senator, taking his seat Dec. 12, 1792. He served until 1794, when he resigned.

[2] William B. Giles, member of Congress from Virginia from 1790 to 1798, and again from 1801 to 1802; U. S. Senator, 1804 to 1815; and Governor of Virginia, 1826 to 1829.

[3] Josiah Parker, member of Congress from 1789 to 1801.

in spirits & inculcating doctrines to w'h that loyal city seemed a stranger—Mr. Dawson I think their only associate in sentiment.

I have heard nothing from Phil'a except a line from Mr. Beckley nor have I seen the piece left behind—I co'd wish Taylor had, or might yet be possessed of a copy, before his escapes him, as it is precisely on the same subject & terminating in the same result—only his more copious & comprehensive—Mr. Beckley says he has sent a packet for you covering some of the copies for us both.

I found Mrs. M. & child well—we are preparing our lower offices, plaistering &c, for our accommodation, that the upper may be appropriated to our friends. In a few days we hope to have this accomplished—we hope soon for the pleasure of y'r company—we shall be quite in retirement, unvisited I believe by any one unless Mr. Jones sho'd call on his return, so that we hope you will come up shortly.

Peter will bring the articles at y'r house; and likewise some of Wilson's, if arrived—our best respects to the family—sincerely I am y'r friend & serv't

JA^{s} MONROE.

TO THOMAS JEFFERSON.

ALBEMARLE, May 23, 1793.

DEAR SIR,—I have just replaced myself at home where I hope to enjoy for a while repose. I did not see Mr Pope at Richmond and of course could not execute the other objects of y^{r} commission. I shall however soon be able to communicate with him thro'

some one of the gen^m who practice in the Louisa ct^y court & will then apprize you of the result.

At Richmond I was requested by Mr. Robert Gamble to mention to you his desire to be employed as an agent for the French in the purchase of flour &^c I am well satisfied from his connection with the country from Richmond to Staunton, his great industry, and other suitable qualifications, that a more judicious appointment could not be made. Indeed considering his political principles I sho^d deem it a desirable object with Mr Genet to enlist him in the business.

Your letter to the care of Mr. Madison has this moment been put into my hands. It shall be noticed by the next post. I saw M^r & Mrs Randolph yesterday in good health. Very sincerely I am your friend & servant

JA^s MONROE.

TO THOMAS JEFFERSON.

ALB, : May 28, 1793.

DEAR SIR,—My last informed you that I had just rec^d yours of the fifth, as I returned from a circuit of professional duties. It communicated to you likewise what I had to communicate respecting y^r own commissions in that line.

The European war becomes daily as it progresses more interesting to us. I was happy to find Mr Genet whom I passed on the road between Fredbg. & Richm^d had made a most favorable impression on the inhabitants of the latter city. It furnishes a favorable

presage of his impression on a more important tho' if possible not a more prejudic'd theatre.

There can be no doubt that the general sentiment of America is favorable to the French revolution. The minority compared with the strength of those in that interest, if the division could be properly drawn, wo^d^ in my opinion, be as the aggregate of Richmond & Alex^a^ to Virginia—but general as this sentiment is I believe it is equally so in favor of our neutrality. And this seems to be dictated by the soundest policy even as it may respect the object in view, the success of the French revolution. For if we were to join France we should from that moment put it out of her power to derive any advantage from these States. We could neither aid her with men nor money. Of the former we have none; and of the latter our weak and improvident war with the Indians together with the debts we have assumed will completely exhaust us. Our declaration would not be felt on the continent. It would produce no effect on the general combination of European powers—wo^d^ not retard the movements of Brunswick's, or any other invading army. It wo^d^ in fact be simply a declaration agñst G. Britain, which would prove beneficial to her, & highly injurious to France, and ourselves. From the view I have of the subject it would relieve her from restraints growing out of the present state of things, which would be both gratifying and advantageous to her. For whilst the rights of neutrality belong to us some respect will be shewn to those rights, nor is it probable that an invasion of them by her will be coun-

tenanc'd by her other associates in the war. Under the protection of these rights the ports and the bottoms of America will be free to France; in addition to which every act of gratuity & favor which a generous and grateful people can bestow, without an infringement of them on the other side, will be shewn. France may greatly profit from this situation, for under a wise management immense resources may be gathered hence to aid her operations & support her cause. And America must flourish under it, if indeed it were generous to count her profits arising from the general misfortunes of mankind. Let it be notic'd as a posterior consideration, after estimating the effect our declaration of neutrality might produce upon the affairs of France. On the other hand I am persuaded our declaration in favor of France, would not only in a correspondent degree, injure that nation, & ourselves, but benefit the party we meant to injure. Freed from any embarrassing questions respecting the rights of neutrality, our commerce would be her lawful plunder, and commanding as I presume she will the seas, but little would escape her. Neither the vessels of France nor even our own, would be safe in our ports, unless we raised fortifications in each for their protection. I shall not therefore be surprised to find G. B. endeavoring to draw us into the war, even against her, by every species of insult and outrage which a proud, selfish, and vindictive nation, can impose, or that this disposition should shew itself in the impressment of our ships, sailors, and other violations of our neutrality. Whether an appeal

from such conduct should be made to the general sense even of the combined powers, with whom I see no reason why we sho^d^ not stand on good terms, with a view of degrading her among all civilized nations, as the Algiers of Europe, or to any other means for the purpose of teaching her better principles and manners, I will not pretend to determine. Certain however I am, at least this is my present impression, that it is our duty to avoid by every possible dexterity a war which must inevitably injure ourselves & our friends and benefit our enemies.

One circumstance seems to press us at present, and which I fear will lessen, before any possible remedy can be applied, the benefits of our neutrality and to those for whom they are wished, I mean the scarcity of American bottoms. I am told such cannot be procured, and in consequence that our productions cannot be exported. The injury that must arise from such a course will be universally felt. Can this be otherwise remedied than by allowing the American merchants to buy in the bottoms of other nations, for a limited time 12. months for instance? I can perceive no other cause at present which can make the meeting of Congress necessary before, or much before the time appointed; and the fact I hope does not exist, or so partially as will admit of a remedy under the regular operation of the existing law by the great encouragement offered to American ships. If such an event sho^d^ take place (a more early meeting of Congress) w^h^ is much spoken of here by letters from Phil^a^, shall thank you to mention the time you

think it will sit, as it will regulate me in my family & law concerns, & particularly whether I shall bring Mrs. M. with me or leave her behind. If such a call sho^{d} be made, however injurious it may be to me, I shall obey it for whilst I hold the present station, I shall always endeavor to perform its duties. I have troubled you with a long letter upon subjects very familiar to you, and upon which you have no doubt long since made up y^{r} mind. Mr R. and family were well two days past—and the neighbourhood generally except Mr^{s} M. who has been indisposed for a few days past.

With great respect, & esteem I am y^{r} affectionate friend & servant

Ja^{s} Monroe.

Is it not surprising that since my arrival in Virg^{a} I have not rec^{d} one of Freneau's papers, tho' Fenno's have come regularly. Perhaps they have not been sent. Will you be pleased to enquire & direct them to be sent in case they are not. We sho^{d} know that Davis is, if not in the opposite interest, yet so miserable a tool of it as not to be counted on in any respect. I inclosed for Beckley from Fredbg. for that paper a political jeu d'esprit of a friend who wishes well to the republican cause. If Beckley sho^{d} be absent, as the cover to him was intended merely as one from you, to prevent y^{r} being troubled with it, could not this be mentioned to the editor to authorize his stripping it off?

TO THOMAS JEFFERSON.

ALBEMARLE, June 27, 1793.

DEAR SIR,—I have been favored with yours of the 4th & shall observe the instruction respecting the fund in the hands of Mr Pope by directing its immediate application to Mr Barrett.

In my last I made some observations evincing the propriety and policy of our neutrality in the present European war, but as that sentiment appears to be general, I refer to it now only as a proof that it is likewise mine. It leaves me more at liberty to comment on the conduct of the Executive since, which I do the more freely as I do not know what part you have borne in it. The measure I particularly refer to is the proclamation declaring this neutrality, with the reply to the address of some merchants of Phila and the order for the prosecution of two marines who had embarked in a privateer licensed by the French Minister. I must confess I had considered the proclamatn at first as only an admonition to the people to mind their own business, and not interfere in the controversy; and in this view altho' I could not perceive the necessity of the measure, yet I was inclined to deem it harmless. As the executive magistrate, the competent authority having not otherwise declared, the President might if he was distrustful of his constituents, endeaver to restrain them within the limits such authority had prescribed, or rather allowed; if indeed there exists in the government, a right to inhibit the citizens of the States from taking comns from either of the powers at war & fighting in their service. I did not suppose it

was intended as a matter of right to declare what sho.d be the conduct of these States in relation to that controversy, but the reply to the merchants and the prosecution above mentioned, seem to denote the contrary, and to shew that the President meant it as such. Upon this construction I deem it both unconstitutional & impolitick.

I cannot conceive upon what principle the right is claimed. I think the position incontrovertible that if he possesses the right to say we shall be neutral, he might say we sho.d not be. The power in both instances must be in the same hands, for if the Executive could say we sho.d be neutral, how could the legislature, that we sho.d war. In truth a right to declare our neutrality, as a distinct authority, cannot exist, for that is only the natural state of things, when the positive power of declaring war is not exerted; and this belongs to the legislature only; any interference therefore with it, by the Executive, must be unconstitutional & improper.

As little can in my opinion be said in favor of its policy. Tis possible G. B. might wish to keep us neutral: if such were her disposition it became her interest to cultivate our friendship, by surrendering the posts &c., whilst our conduct was in suspense that anxiety would be increased; but by this precipitate declaration the point has been given up, and for what object? What do we gain by it? We committed no offence, untill we sho.d violate the laws of neutrality, and no power could compel us to say what part we would take in the controversy, by holding aloof on

that head nor could be dissatisfied except France in case she sho^d^ claim the guarantee--Declarations of neutrality I believe generally succeed applications for them, or the contrary course. Had France applied for our aid, or had Britain that we wo^d^ not aid her, then in either case, such notification wo^d^ have been regular. But a declaration like ours is I suspect without precedent. It loses the merit of having not refused France, or of accommodating Britain. It gives us no claim upon either court. France indeed it outrages, for it denies her claim of guarantee, or yielding it up, the merit of the concession. And Britain it assures of an accommodation where she may wish it, without even the trouble of asking for it.

Again, why prosecute our citizens, for taking comn^s^ in the French Service, against what law have they offended, or upon what principle are they charged? The mere acceptance of the comn cannot be deemed criminal, and the act of hostility upon the British vessel was without the jurisdiction of these States, as I presume upon the high seas—and the doctrine is well established that no offence can be committed against the laws of any society beyond the limits within which they operate; for instance that an offence, such as murder or the like, committed in France cannot be punished here; and if upon the sea, the principle is the same unless the party be a pirate, and in that case amenable to the admiralty tribunals of every country. The subsequent act of bringing the vessel into port here, does not I suppose constitute the ground for prosecution, more than if these men

had carried, or aided in carrying her, to the Island of St Croix or elsewhere & returned her, for if it does the purchasers or Mariners afterwards hired, to take care of her, are equally criminal. This I take to be the doctrine of the common law—Tis certainly the base upon which separate and independant Societies are erected. Nor has it been enlarged by any act of the legislature that I know of; tho' indeed I have not the acts with me. So far upon the idea that the French Comn gives no separate rights or immunities, to one of our citizens, otherwise than if he had none. But does it give none, & of which he may avail himself against the opposite power, and even against his own country? If taken can he be treated as a pirate? The laws & usages of Nations are otherwise. Can we be made answerable for his conduct? If we had hired him to France or Britain as the Swiss in particular do, we co^{d} not be. As a volunteer then we certainly are not.

I do not absolutely deny the right of a Society to restrain its members from ye Commission of certain enormities, beyond ye limits of its own jurisdiction, under such penalties as it may impose tho' according to my present view of the subject, but few if any benefits can be derived from it, and some objections occur. The local tribunal will always be sufficient for his punishment if apprehended & if he escapes, yet the power disposed may surrender him to justice. This I sho^{d} think enoug^{h} either for the suppression of vice, or national security. But to give our laws cognizance of offences committed in other countries must

be deemed not only sanguinary as it respects our citizens, but a derogation of the Sovereignties, in which they may be. The offence for instance, by a fiction of the law must be considered as committed here. May we demand them & rescue him from their Courts to be punished here, or shall he be twice punished for the same offence? Nor am I an advocate for privateering; on the contrary could wish the practice suppressed—but presume such reformation shod be brought about by conventions throughout the world, and not the desultory operations of any one nation. But by taking the laws as they are, I cannot perceive wherein they have offended, or upon what principle the prosecution can be supported—In this position I think myself founded in relation to foreign authorities, for there where the doctrine of allegiance binds the subject in perpetual obedience to his Sovereign, it has never been otherwise construed, or applied, than to prohibit the right of expatriation and of course, the taking up arms agnst his native country. To fight in the service of one Prince agnst another was never denied I believe to any one. I suspect it was never asked unless the party were already in the service of his own—But with us will not the rights of citizenship be construed more freely? will that of expatriation be denied? and may not the mere act of accepting a comn in a foreign service be deemed such if the party pleases? In this state there is a law to authorize it, but that law is drawn in such cautious terms, as to leave the point as it stood before, upon foreign authorities, improved by the principles of our revolution, and was intended not

to abrogate any rights but to make sure, what had been doubted.

But admitting it to be an offence and punishable by our laws, why prosecute these people untill formally demanded by that court, in case she had a right to demand it? Is it that we affect an extraordinary degree of refinement & political purity? The parties at war will not I apprehend ascribe it to that motive. Nations more generally shelter their citizens from punishment when due and demanded than otherwise. But to commence it ourselves unauthorized, as I believe, and pursue it with such vigor will be ascribed to some other. If we so seriously abhorred vice, and were disposed to banish it from our country, has no other instance of enormity presented itself worthy reprehension?

I have but little hope of a fortunate issue from the negotiation in Spain, for I observe that it is conducted on the part of that court by Gardoqui a subtile and malignant little wretch, highly incensed against us for defeating him on that point here, and he well knows the support he recd upon that occasion from a party still high in office and all powerful in the present administration. The association of Carml too will I fear prove a clog on it, for tis possible he might deem a rapid success as a feather to his colleague taken from himself—And with Britain my expectation is on the same level, for our conduct to her since the adoption of the present govt, as more fully shewn by this declaration of neutrality, and the acceptance of her patronage (for such I presume to be the case by our comr

taking the rout of Niagara) to obtain our peace with the Indians, must convince them of our subservience to their views, or how extremely impotent and contemptible we are. We forced that nation to abandon those very Indians in her treaty with us, and now when opposed to them alone, divided too on their part, and strengthened on ours by alliances with several tribes, we accept, if not solicit, her aid to make our peace with those whom they had sacrificed. Either this nation must be among the most unprincipled, or she will endeavor to compensate her allies at our expense. To expect the contrary, unless we have the fullest assurance of her perfidy, must shew the weakness of our councils. I trust that our humiliation has attained its lowest point, when we are capable of placing ourselves in a situation so degrading & shameful. But the solidity of our credit with the brokers at Amsterdam is a medicine of sufficient virtue to heal every wound that can be given to the national honor & reputation. Excuse this letter which has exceeded the bounds I had contemplated, and be assured of the sincerity with which I am y^r^ affectionate friend & servant

JA^s^ MONROE.

TO THOMAS JEFFERSON.

RICHMOND, July 23, 1793.

DEAR SIR,—I came here yesterday upon some business in the office of the C^t^ of chancery, & shall return to-morrow. I shall see Barrett today & give him a line to Mr Pope for the adjustment of his claim.

Mr Lewis & Jones have valued men & children but have not furnished me the statement. They will on my return. I am likewise in yr debt for the Encyclopedia. Be so obliging as state in yr next the amount & I will include the whole in the same bond. 'Tis impossible to adjust the transaction in a manner more agreeable to me & therefore hope it will likewise be so to you.

The information contained in yr last of the prospect of a war with Spain is truly alarming—but I still hope it may be avoided—as it embarks us of course in the genl war of Europe & puts our fortunes afloat on the event. The unanimity of our Execut. Councils on the subject begets strange suspicions with me.

By the proclamation so far as it had a right, we are separated from France. The progress of the war then is not intended to be in great harmony with that nation, as for the support of publick liberty. We shall however be at war with Spain upon a private quarrel of our own—for instance for the Mississippi, & wh I hear has been entirely guaranteed by Britain to that power. But the guarantee has not been published & perhaps not intended to be. The commencement in the object & parties to the war, contains as little hostility to Britain & monarchy as possible; the odium of it too with the present Indian war will be placed to accr of the western country, already unpopular enough throughout the Continent. Britain it is obvious will prescribe the terms of the peace & what these may be, in the unsettled state of the world with respect to govt the disposition of many with respect to the westn country, & torn to pieces as we are by a

malignant monarchy faction, is altogether incertain. Besides upon what principle can it be accounted for, that the notificate party lose the support of Hamilton upon this occasion furnished them upon all others? The notificates are in the dust if we are involved in a war, & he has shewn he co^{d} bear any kind of indignity from the B^{h} c^{t}. The whole is misterious to me. I fear the party, finding its aff^{rs} desperate and that by fair discussion before the publick it will be crushed, and that the publick credit party by the mismanagement of the pub. finances, and partly by the present war whose effect is felt, are disposed to precipitate us into some dreadful catastrophe w^{h} may end we know not where. The circumstance of a Sp^{h} war is of all others the happiest expedient for them. They have shewn themselves the patrons & advocates for peace by the procl^{n}—a war, and for the Mississippi or Southern boundaries will not be theirs—its odium will fall elsewhere.

I am (agñst every invitation to war) an advocate for peace. The insults of Sp^{n}, Britain or any other of the combined powers, I deem no more worthy our notice as a nation, than those of a lunatic to a man in health—for I consider them as desperate & raving mad. To expose ourselves to their fury if we can get out of their way wo^{d} be as imprudent in the former as the latter case. To preserve peace will no doubt be difficult, but by accomplishing it, we shew our wisdom & magnanimity. We secure to our people the enjoyment of a dignified repose, by indulging which they will be prosperous & happy.

There is no sacrifice I wo^d^ not be willing to make for the sake of France & her cause, but I think by this course we advance her interest—and I am persuaded she must so understand it. In the mean time, whatever the principles of neutrality wo^d^ allow of, sho^d^ be granted her.

I observe a curious publication signed "pacificus" written no doubt by Mr H.[1] The principles it contains are really novel. The President he says may of himself annull any treaty or part of a treaty he thinks fit, as the organ of comm^n^ with foreign powers, that he has done so by the procl^n^—in respect to the guarantee, w^h^ he has declared void, & the other two articles he has permitted to remain in force. It contains other doctrines equally exceptionable but w^h^ I have not time at present to notice nor you, I presume to read. With great sincerity, I am y^r^ affectionate friend & servant, JA^s^ MONROE.

I rec^d^ Mr Freneau's note excusing the omission abt^t^ his paper, respecting w^h^ I return an answer. Is it not surprising the pamphlet entitled "An examination &^c^" has not reached this. I never co^d^ obtain a view of it till the other day a copy was presented me for perusal.

TO THOMAS JEFFERSON.

ALB^y^, Augt. 21, 1793.

DEAR SIR,—On my return from Richmond I was favored with yours of the 14. of July. I sho^d^ have

[1] The first of Hamilton's essays was published June 29th. They were continued to the seventh number, appearing at intervals during the succeeding month.

answered it sooner had I not been prevented by some peculiar engagements. At present I sho^d^ be more full upon some points but that the favor of Mr Madison's comp^y^—likewise prevents it. Upon one point I think it necessary to say a few words. You suggest that some indiscretions of Mr Genet have given an advantage to his adversaries they seem disposed to avail themselves of by an appeal to the people w^h^ you fear in the event of parties & the probable preponderance of the opposite interest may injure his country—of one fact I am well assured that in case of such an appeal, the people of this State in deciding on the merits of the controversy, wo^d^ pardon the errors of the French minister, whilst they wo^d^ consider those of the administration inveterate & malignant vices. They wo^d^ consider his as the effect of the intemperate zeal of an honest heart active in the support of the best of causes, whilst they wo^d^ deem those of his antagonists, as the effect of unsound hearts & wicked heads planning the ruin of that cause.

A variety of considerations incline me to believe that a crisis is rapidly approaching that will produce some great change in our affairs. I consider this gent^n^ as an important instrument in bringing on that crisis. The publick mind will not be governed by light or trivial incidents but will take the measures of 4 or 5 years together—as the data or rule to decide by—and if upon the whole the measures of the adm^n^ partake more of evil than good, let the incident w^h^ matures the crisis be what it may, they will condemn it. This is not suggested as a mere matter of surmise.

I know the principle to be at work & I am well satisfied it will produce fruit in the course of a short time.

The French historians will record the conduct of this country towards theirs, they will note that of individuals also. Those who shall take any part which the world & posterity may not approve, be they who they may, will be handed down in their proper colours.

I understand from Mr Madison that you have already recd some intimation of the paper enclosed. I have therefore only to request that you will be so kind as forwd it to the gentn to whom it is addressed.

Mr Randolph & Mr Jeffn dined with us today—his family are well.

I am, dear sir, very affectionately yr frnd & servt.

Js Monroe.

TO JOHN BRACKENRIDGE.[1]

Albemarle, Augst 23, 1793.

Dear Sir,—Accept my congratulations on yr safe arrival & happy prospects in the country you have adopted as yr own.[2] I wish I cod write you more fully at present, but time & other circumstances will not permit.

The monarchy party among [us ?] has seized a new ground whereon to advance their fortunes. The French minister has been guilty, in the vehemence of his zeal, of some indiscretions, slighting the President of the U. States, and instead of healing the breach,

[1] I am indebted to Mr. Wilberforce Eames for this copy from the original in Lenox Building, N. Y. Public Library, Em. 1122. [2] Kentucky.

this party have brought it to the publick view & are labouring to turn the popularity of this respectable citizen, agnst the French revolution, thinking to separate us from France & pave the way for an unnatural connection with Great Britain.

Jay & King have certified the indiscretion charged on the minister, & handed it to the publick printers. I have time only to suggest the idea, to enable you to understand what you may see in violation to this object, & to put the friends of republican government on their guard. With great esteem I am sincerely y^r^ friend & serv^t^

JA^s^ MONROE.

Fav^d^ by Mr Marshall.

TO THOMAS JEFFERSON.

STAUNTON, Sepr 3, 1793.

DEAR SIR,—I parted from Mr Madison three days past at my home. He was so kind as to shew me y^r^ letter[1] to him by Mr Randolph. The state into which the conduct of an indiscreet man on the one part, and some very wicked men on the other, has thrown us in respect to France fills me with extreme concern. That he sho^d^ not have implicitly follow'd

[1] "You will perceive by the enclosed letters that Genet has thrown down the gauntlet to the President by the publication of his letter & my answer, and is himself forcing that appeal to the public, & risking that disgust which I had so much wished should have been avoided. The indications from different parts of the continent are already sufficient to shew that the mass of the republican interest has no hesitation to disapprove of this intermeddling by a foreigner, & the more readily as his object was evidently, contrary to his professions, to force us into war. I am not certain whether some of the more furious republicans may not schismatize with him."—*Jefferson to Madison, August 25, 1793.*

y^r^ advice in all the aff^rs^ of his country is to me astonishing, as well from y^r^ known attachment to that nation & her cause as his having mentioned that fact in Richmond on his way to Phil^a^ With respect to him he must follow the fortune he has carved out for himself. It remains for us to prevent the ill effects which menace us from that quarter, by appeasing France by every possible explanation &^c^ in our power; & counteracting at home the views of the party who have brought the subject to the publick view.

That the object of this party is to separate us from France & ultimately unite us with Engl^d^ is what I am well assured of—and that the certificate of Messrs Jay & King was concerted at Phil^a^ as the means of bringing the subject before the publick is likewise what I believe. Tis likewise to be presumed that they had made their arrangements for taking the subject up throughout the continent so as to give the proceeding a face that would be highly disgusting to France. I consider the whole however as a mere trick & which will ultimately recoil on the authors of it. The people will soon perceive they have been abused & hurried into excesses they will be ashamed of as soon as they become cool.

The party in Richmond was soon set in motion, from what I have understood here have reason to believe they mean to produce the most extensive effect they are capable of. Mr Marshall had written G. Jones on the subject & the first appearances threatened the most furious attack on the French minister, the pressure to it was ended in a manner honorable to the

parties concerned (the mention of that character alone excepted) & he is only classed with Messrs Jay & King. I am persuaded the subject will likewise be taken up in Albemarle & other parts of the State, and apprehend there is some danger these latter gentn may be presented by the Grand jury for their improper interference in the affrs of the Executive. Satisfied I am that in a publick discussion, the sense of the community will be found, in the proportion of 9. to 1. in favor of the French cause & in reprobation of any effort to lessen its merits & interest here. I doubt not yr sense of the conduct of the individual is confined to a very narrow circle, for the experiment of separating him from his country, in every view, is of that delicate nature, that its consequences cannot be foreseen. Many here, & since his letter, & the certificate alluded to have been seen, applaud him for his zeal in pressing the cause of his country. But if they believed that you really thot him culpable, it would create a despondency that would complete the triumph of the enemies to his country & her cause.

I have been long sensible that yr departure, & especially since the publick mind has been so much agitated, wod be severely felt & vehemently opposed by a particular character. If I mistake not he fears to be left exposed, in the society of those who would be left behind with him after yr departure. If yr opinions had more weight upon the questions agitated, I shod believe the desire for yr continuance was not dictated by self-love. Permit me to add that I consider yr situation, the most important & interesting

that can be conceived. Its importance is felt by the opposite party in such a degree that altho in one view they wo^{d} be gratified by y^{r} retreat, yet they fear greater injury to themselves, from that event than y^{r} continuance, and therefore wish it. They know the solidity of y^{r} principles founded on reason & reflection, and in case the republican party sho^{d} pass that boundary, count upon y^{r} restraining them; because they well know that that party repose an unlimited confidence in you. Y^{r} friends indeed will be happy in y^{r} continuance because they will be greatly aided by y^{r} councils. I write you in great hurry, not having indeed leasure to read it over, so that you will find an apology for any impropriety it may contain, knowing the sincerity with which I am y^{r} affectionate friend and servant.

Ja^{s} Monroe.

TO JAMES MADISON.

Albemarle, Sepr. 25, 1793.

Dear Sir,—I am still doubtful whether I shall visit Fredericksburg this term—if I do will call on you as I go down perhaps on Monday—but I shall, in case I do not, set out on that day for Richmond, so that I shall not have the pleasure of seeing you here till the week after.

I found at Staunton impressions had been made by letters from Richmond. Mr. M. had written to G^{l} Jones who was there to promote an address correspondent with that from the metropolis. The let-

ters, however, I took with me effectually changed the current and gave it a direction against the anti-republican faction. A meeting took place & resolutions were passed in a tone of sentiment perfectly correct & proper. Messrs. Jay & King were put upon the same footing with the French minister in a resolut'n whose object was to conciliate France & express the attachment of the place to her revolution. They were enclosed to Mr. Gamble to be handed the Printer but as yet have not appeared. I returned home sick of the Influenza & was indisposed thro' the court here. Mr. Nicholas was unwell & did not come up till the day the c't adjourned. Gilmer was in Rockingham—and the clerk was averse & circulated resolutions of a different complexion. Finally a notice was put up for a meeting of the freeholders on the last day of the court —but few met so that the project failed, very much to the chagrin of all who did, & indeed of every one who heard of it, except a few only. It is, however, to be renewed at the next county court when it is intended to part the pro's & con's. A little incident has given me some pain—being sick & hearing the Clerk had shewn some improper resolutions, & that he likewise disapproved those of Staunton, I furnished Bell, who called on me, with those we had approved, to be copied & given to Mr. Randolph that the latter might alter the style. This was done, but unfortunately a schism took place in that family between those drawn there and the original set—Peter Carr preferring the latter—so that both were shewn & I am told that since those from Caroline have appeared, their correspond-

ence with them, has been notic'd. I shall adjust this matter in the best manner possible.

Mr. Jefferson I hear is arrived. I shall see him this morning. I have written a piece for Richmond but doubt the propriety of its publication—as upon a review it bears the aspect of too pointed an attack upon a certain personage—& likewise treats with too much asperity G. Morris. Very affectionately I am y'r friend & serv't

Ja^{s} Monroe.

TO THOMAS JEFFERSON.

Octr. 14, 1793.

Dear Sir,—The fatigue of my late journey & some concerns wch. require immediate attention will deprive me of the pleasure of being at Monticello till after ye. arrival of Mr. Madison which will be on Wednesday —unless the funeral of his brother shod. detain him longer, wch. however is not expected. I send you the Fredbg. paper containing ye. proceeding there, wch. terminated in a recommendation to the counties to take ye. subject up. It commenced in an invitation by Jas. Mercer, Mann Page, & others, the most respectable inhabitants in that part of the State, to the inhabitants of the District to convene for the purpose of discussing some topics of general concern. Edwd. [illegible] who was at that time in town with some associates of the same party, took the recommendation up, [illegible] in the chair) addressed the inhabitants of [illegible] against the meeting—similar efforts were [illegible] wch. together with the short notice

given, & the real difficulty in assembling people from parts so distant, prevented a numerous meeting. The majority therefore was with the town & its dependents. This will acct. for the issue. Those of character, such as Page &c., withdrew their names from the committee, & Mercer was retained by his seat in the chair only. The weight of the republican characters awed the sects, tories, & their assistants into silence or I believe a most loyal proceeding wod. have been exhibited to the publick. The resolves I have no copy of but they will be published in the paper. I am affec'y. yr. friend & servt.

JA^{S} MONROE.

TO THOMAS JEFFERSON.

PHILADELPHIA, Decr 4, 1793.

DEAR SIR,—I find the establishment of the charge agᵑst Mr Genet will depend principally upon what you heard Mr Dallas say. This latter will deny that he ever said anything like what the certificate states. Jay & King heard it from Hamilton & Knox, these latter from Mifflin & I am told that there is a difference between those gent^{n} & Mifflin, & likewise between him & Dallas as to what they respectively stated. So that the fact will be disproved agᵑst them, unless the circumstances they are able to adduce are supported by you. If they procure from the President y^{r} report to him will not this transfer the business from them to him. I have just heard the above & transmit it for y^{r} information.

JA^{S} MONROE.

TO JAMES MADISON.

NEW YORK, Feb'y 8, 1794.

DEAR SIR,—I arrived yesterday too late for the post to bear the acc't of it. I found Mrs. M. & the child well, tho' the former had been nearly lost by the sinking of the ice as she came. Mr. Kortright is living & perfectly in his senses, free from pain & perhaps not near his end. He is, however, in his decline & confined to his room. I find him most friendly & affectionate, but as yet I am not sufficiently acquainted with his aff'rs to say anything respecting them.

I am happy to hear that y'r resolutions are postponed by the authority you mention. I think the publick sentiment with them. I found it a subject of complaint as I pass'd thro' Jersey that the doors of the H. of R. were not shut as those of the Senate were, because the people were already so hostile to G. B. that it wo'd be difficult to keep them within bounds if encouraged in that licentious spirit by the discussions in Congress. An excise officer of the latter place as I understood who came up from Phila. to Trenton, said the resolutions wo'd not pass but that the Sec'y of T. was preparing something that w'd do better; but even this man said he wished France well & felt resentment towards Brit'n. I hope to hear regularly whilst I stay from you & Colo. Taylor.

Affec'y I am y'r friend JA^{S} MONROE.

TO THOMAS JEFFERSON.

PHILA., March 3, 1794.

DEAR SIR,—The avidity with which I knew you sought retirement and peace, undisturbed by political

occurrences, with the further consideration that no event of any importance had taken place since you left us, prevented my trespassing on you sooner. I am perfectly satisfied you will find in that retirement a contentment & tranquility not to be hoped for in publick life. And yours will be the greater because you carry to it, notwithstanding the important and even turbulent scenes you have passed through, not only the approbation of yr. own heart, & of yr. countrymen generally, but the silence & of course the constrained approbation of yr enemies. I look forward with pleasure to the period, and it shall be no distant one, when I shall occupy as your neighbour the adjoining farm. To this end all my plans will hereafter have an undeviating reference, and I consider the death of Mrs. Monroe's father, an event lately taken place, lessening her attachment to this quarter of our country, as calculated to precipitate it.

You were aware of the motive in commencing the session by some act, connected with the present state of our affrs. founded on the publick sentiment, and which shod. at the same time vindicate our rights & interests, and likewise shun all possible pretext for war, on the part of the power it was meant to affect, and that the propositions introduced by Mr Madison[1]

[1] Madison, as the leader of the Republican party, had introduced in the House, on January 3, 1794, a series of resolutions, based on the report made by Jefferson, shortly before his retirement, in reference to the restrictions imposed on our trade by foreign countries. These resolutions proposed additional duties on the manufactures and shipping of countries having no commercial treaty with us, and provided for specific retaliation wherever restrictions were imposed by foreign governments on our commerce. The resolutions were bitterly opposed by the Federalists, who declared they were aimed at Great Britain, in the

were tho't. best calculated to accomplish this object. Of their fate so far, he says he will inform you, so that I need only add on that subject, that whether we succeed or not, they will certainly tend to open the eyes of the eastern people respecting the conduct of their representatives as well as of the motive for it. Information is all they want: an opposition to our carrying trade, by their own members, will affect them, in such a manner, they will all know the fact, & understand the motive. I therefore hope for the best effects from the discussion of these propositions, and think symptoms to the Eastward authorize the expectation it will be verified.

On Friday last the Senate, 14 to 12, declared that Mr. Gallatin[1] had not been 9 years a citizen of the U. States when elected & that his seat was vacant. Upon this occasion Mr. H.[2] of N. C. left us wch. prevented a division, & a decision from the chair; we have reason to believe that a decision wod. have been with us, from what has since transpired, upon the

interest of France. A long and acrimonious discussion ensued, which resulted, February 3d, in the adoption of the first resolution, involving the general principle of the proposed measures, by a vote of 51 to 46. The others were still before the House at the time this letter was written.

[1] Albert Gallatin, a native of Geneva, Switzerland. Soon after his seat in the Senate was vacated, he was elected, by the Republican party, a representative from Pennsylvania, and served in the House with distinguished ability from 1795 to 1801, when he became Secretary of the Treasury under Jefferson.

[2] Benjamin Hawkins, Senator from North Carolina, 1789–95. He served, in the Revolutionary war, on the staff of Washington, as interpreter, where his knowledge of French was of great service to the Commander-in-Chief, in his intercourse with the French officers. In 1796 Washington appointed him agent for Superintending all the Indians south of the Ohio. He held this office until his death in 1816.

principle, his vote should not displace the sitting member. Morris had intimated in the beginning he shod. take no part in the question, but finding that Langdon was with us & the question wod. probably depend on his vote, just before the vote was taken he rose and apologized for the necessity he was under from scruples of conscience (being convinced he had no right to his seat) to vote his colleague out. It appeared he had been near 14 years a resident, 7 years in Mass: where he was a professor of Harvard College, and where there is no citizen law, and inhabitance makes citizenship, by the constitution of that State. In opposition to which it was contended that the Englh. alien laws were in force there & that it was the practice of the State to pass special acts of naturalization for foreigners. That "inhabitant" means native or person so naturalized and that the confn (4th article) could not make an inhabt. tho' for 50 years in that State, not born nor naturalized there, a citizen in another emigrating there. The opposite of this doctrine was urged in both instances, and in particular in the first, that specl. acts of naturalizatn. might be intended to dispense with residence, or as favors, and at best wd. not controul the constn. of the State wch. was paramount & a rule to us. He had not taken the oath of fidelity 9 years when elected nor when he took his seat.

Abt. 3 weeks past a resolve passed the Senate by a majority of one for requesting the President to lay before the Senate the correspondence of Gr. Morris, with our Ex: & with that of France also. Two days

past he laid before us a voluminous correspondence, stating "that he had omitted such parts as in his judgment ought not to be communicated." It has not yet been taken up. The opinion however of many is that his discretion sho'd. extend to time only, but this assumes the control over the whole subject & in all respects. The removal of M[r] G., if it wo'd have been proper in any event to discuss this point (considering the Senate a branch of the legislature) will I presume prevent it.

About a week past the question for opening the doors of the Senate was taken, by the 1st vote it was rejected 14 to 13. Bradley of Verm; finding he co'd. carry it, moved to reconsider, w'ch. gained us immediately three others, & upon the final vote the opposition was reduced to 8 or 9 only: Ellsworth &c. voting for it, to take effect next session.[1]

The Indian Treaty formed by Putnam after lengthy discussion was rejected. The arrival of M[r] Fauchet has removed M[r] Genet who is still here & I believe under some difficulty how to shape his course, on w'ch. head nothing final has transpired. Fauchet was rec'd. with the most profound attention by the party

[1] "Resolved—That, after the end of the present session of Congress, and so soon as suitable galleries shall be provided for the Senate Chamber, the said galleries shall be permitted to be opened every morning, so long as the Senate shall be engaged in their Legislative Capacity, unless in such cases as may, in the opinion of the Senate, require secrecy, after which the said galleries shall be closed.

"Resolved, That, on a motion made and seconded to shut the doors of the Senate, on the discussion of any business which may, in the opinion of a member require secrecy, the President shall direct the gallery to be cleared; and that during the discussion of such motion, the doors shall remain shut." *Annals of Congress*, February 11, 1794.

heretofore opposed to his country & his cause. 'Tis probable they might hope the fate of his predecessor wo'd. warn him to shun not only his errors but likewise the friends of France, upon the idea they wo'd. be the friends of Mr. Genet. But this calculation cannot be verified. He must soon find that the republican party here are the only friends of that cause in his own country, and that it was owing to a zeal for that cause and a belief the man was honest, that his errors were in any degree tolerated by them. As yet the conduct of Fauchet appears to be reserved and prudent, and 'tis to be hoped he will finally take a course correspond'g. with what the interest of his country may require. We are well. Mrs. M. was called ab't. three weeks past by the illness of Mr. Kortright to N. Yk. where she still is: I hope for her return in a few days. With great respect & esteem I am Dear Sir sincerely yr. friend & servant

Ja.s Monroe.

TO THOMAS JEFFERSON.

Philadelphia, March, 16th '94.

Dear Sir,—Mr. Madison's propositions are yet depending & their fate uncertain. The probability is they will pass in the H. of R. & be rejected in the Senate. The steady zeal with which any thing like a systematic operation on the British commerce, or indeed any branch of her interest is opposed, you have long witnessed & can of course readily conceive upon the present occasion. The opposition as you have seen commenced in the most open declarations in

favor of G. Britain, justifying her in all her enormities; but latterly it has assumed a new tone passing into the opposite extreme. Mr. Sedgewick introduced the other day a proposition for raising 15,000 provisional troops founded upon the idea of providing for our defense against invasion, & the probability of such an event, considering the unfriendly conduct of G. B. towards us for some time past. It is believed this was not only concluded by the leaders of the faction, but that all its members will support it. A change so extr'y. must have a serious object in view. At first I believe it was only to counteract by a new manœuvre the propositions of Mr. M; showing that the crisis was more urgent than they co'd. remedy, & to remove at the same time the impression their partiality for B. had created among their constituents. But I am inclined to think that it contemplates something still further and is designed to lay the foundation of measures more destructive to the publick happiness. They are to be raised in no given quarter, & although they may be deemed a kind of minute men in respect to their situation except in time of war, yet in every other respect they will be regulars. As such they will be officered by the genl. govt., as such paid, and most of the officers will consider it as the commencement of a military establishment, embark in it with that view & use their utmost efforts to convert it into one. The order of Cincinnati will be plac'd in the command of it, being a part of the military establishment; one common chief will be at the head of the whole, as generalissimo, & immediately supersede Wayne. A

particular character here is contemplated for this office, & two of our countrymen H. L.[1] & C.[2] are spoken of as persons deserving high rank in it. The influence of such an institution upon the measures of the gov't in the patronage it gives &c. you will readily conceive —nor can it be doubted that if it sho'd. be so disposed as its leaders will be, it may even remodel & form it by the Englh standard. It will likewise completely supersede the militia, who will afterwards become a useless & dormant body, scarcely retaining arms in their hands. Thus we see this faction in our councils seizing with avidity every incident that may possibly tend to promote the great object of a change in the government.

What course it will be proper for us to take in the present emergency becomes daily more difficult to decide. The aggressions of Britain have increased to a height to silence the voice of her friends, or nearly so. She regards no kind of form in the pursuit of our property, seizing whatever she can lay her hands on. Our vessels w'ch. remain are driven into harbour here

[1] Henry Lee, the "Light-Horse Harry" of the Revolution. At the date of this letter he was Governor of Virginia. In the following October, Washington placed him in command of the forces sent to suppress the Whiskey Insurrection, in Pennsylvania. In 1798, at Washington's suggestion, President Adams appointed him Major-General in the Provisional Army authorized in anticipation of a war with France.

[2] Colonel Edward Carrington. He had served as Lieutenant Colonel of Artillery and Commissary of Prisoners during the Revolution. Washington had great confidence in him, and consulted him often as to appointments from Virginia. In 1796 he tendered him the office of Secretary of War, which was declined; and in 1798 recommended his appointment as Quartermaster-General of the Provisional Army.

& will I apprehend scarcely leave it again for the present. An embargo is proposed with the view of cutting off supplies from the B'h. West Indies, necessary in aid of her present operations there.

Urgent as the crisis is, the embarrassment increases still further from the consideration that not the least confidence can be reposed in our Executive council. To embark in a war when the whole favor of the country will be in the hands of the enemy of the publick liberty, a few characters only excepted, will be more dangerous than any now menac'd from B. and yet to take no step seems to evince a pusillanimity w'ch. will degrade us as a nation, & likewise suffer the ruin of our commerce & every other interest connected with it to take place.

Prior to the excl'n. of Gallatin several votes had been taken & carried in the Senate w'ch. indicated a change in the general measures of that body. A particular one calling for the correspondence of G. Morris was more especially felt in a certain quarter. At that period R.[1] informed us that a certain person began to doubt the views & principles of a certain faction & to think more favourably of others. And the members of that faction began to express similar doubts of him. But from the time of his removal we have heard nothing further of those doubts, on his part, and on theirs the ancient spirit of confidence & affection has been revived. What will be the issue of our affairs time can only develope, but certain it is that at present

[1] Edmund Randolph, who had succeeded Jefferson as Secretary of State, January 2, 1794.

.he prospect is most wretched & gloomy. I had like :o have omitted mentioning that as a remedy it was talked of by the fiscal party, to send an Envoy Exty. to Engld. to complain of these injuries & seek redress, & that H[1] was spoken of for this mission. As the situation is in some measure a parallel one I sho'd. think it more suitable to employ John Dickinson, who I believe drew the last petition of Congress to the king, in the course of the late revolution. With great respect & esteem, I am, Dear Sir, Yr. affectionate friend & servt JAs MONROE.

TO THOMAS JEFFERSON.

PHILADELPHIA, March 26, 1794.

DEAR SIR,—Your favor of the 11th reached me yesterday. We were mortified to find that our letters had not reached you, but hope the obstacle at Richmond is removed before this. As Mr. M. has written you I shall say nothing at present upon the subject of affrs. here.—I shall only commence with the enclosure of yr. correspondence with Hammond wch. after perusal by yr. family & any others whom you wish, shall thank you to send to my brother in Charlottesville—I sent Stuart at Staunton a copy and we mean to transmit one with the one containing the correspondence with Mr. Genet to the Ex: for the legislature. I hope Peter has not failed to attend & pursue yr. advice respecting the fruit trees. We desire to be affectionately rememb'd to yr. family. I am sincerely yr. friend & servt. JAs MONROE.

[1] Alexander Hamilton.

TO THOMAS JEFFERSON.

PHILA., March 31, 1794.

DEAR SIR,—The embargo passed two days since[1] . . . of some moment in the character[1] . . . of this city was discovered[1] . . . had opposed the embargo on Friday—and on Monday introduced the proposition himself. It contained a proviso wch. implied a right that those vessels wch. had already obtained clearances shod. be exempt from the operation—but this was amended in the Senate. A vessel of his was caught near the capes by a French Frigate & sent up with a British passport, w'ch had cleared out on Saturday. Propositions for sequestration & organizing the militia are dependant—an Envoy Extry. is spoken of for Britn.—& Hamilton, Jay, & King are those urged by that party. It will probably be one of them unless there shod. be found a vote for their rejection in the Senate wch. is not presumable. Either will answer to bind the aristocracy of this country stronger & closer to that of the other.

Yrs. affecy. JA^{S} MONROE.

TO THOMAS JEFFERSON.

PHILA., April 2, 1794.

DEAR SIR,—A committee of the H. of R. sits daily to provide funds for equipping the fleet & other measures connected with the exigency of the times. They have finally I believe agreed on nothing as yet, tho' the fiscal party are for excises on tea &c. The

[1] Mutilated in the original.

citizen party are for a land tax but seem backward on the subject in every view: regret that an occasion has been made for any great increase; this subject will take time. The fiscal party say to the other, you have taken the business from the Tre'y. department, shew y'rselves equal to it, & bring forward some system. The latter replies, the practice of reference has been condemned by the publick voice as other things will be when understood; the rejection of it is a triumph of the people and of the constitution over their & its abuse; but the provision of taxes is not more the duty of those who have been active in the rejection than of those who opposed it. If it is more the duty of one than of the other side, it is particularly that of those who have made taxes necessary. The arrival by way of Halifax of an acct. of some relaxation in [*mutilated*] from the orders of the 8. of Jany. suspending the proceeding on the sequestration of debts. A Mr. Ross from Washington is elected in the place of Gallatin. He is perhaps not altogether the man whom the republicans would have chosen, but by them he was elected in opposition to one, Coleman, from the Southeastern country.

Sincerely I am yr. friend & servt. JA^{S} MONROE.

TO GEORGE WASHINGTON.[1]

PHILADA., April 8, 1794.

SIR,—Having casually heard that it was requested by many of Colo. Hamilton's political associates, that

[1] This letter seems to have raised, for the first time, the question as to the right of a Senator to criticise the nomination of a public officer before its pre-

you would nominate him as Envoy to the Court of Great Britain, and as I should deem such a measure not only injurious to the publick interest, but also especially so to your own, I have taken the liberty to express that sentiment to you & likewise to observe farther, that in case it is your wish I should explain to you more at large my reason for this opinion, I will wait on you at any hour you may appoint for that purpose.

With great respect & esteem
I am, Sir, Your most humble servt.
Ja.s Monroe.

TO THOMAS JEFFERSON.

Phila., May 4, 1794.

Dear Sir,—Yours of April 24th reached me yesterday. Since my last the proposition of Mr Clarke for prohibiting the importation of British goods until the posts shall be surrendered & compensation made

sentation to the Senate. Washington submitted the matter to the Secretary of State, for his opinion. Randolph's opinion was "that the Secretary of State inform Col. Monroe verbally, that his station entitles his communications to attention; that it is presumed, that he has considered and made up his mind as to the kind of interference, which a senator ought to make in a nomination beforehand; that upon this idea the President will be ready to afford an interview at a given time." Washington did not accord in this opinion, and wrote Monroe, the next day, ignoring his suggestion of a personal interview, but at the same time requesting that if he was "possessed of any facts or information which would disqualify Colonel Hamilton for the mission," that he would "communicate them in writing." Monroe was not alone in his opposition to Hamilton. Washington received other protests. John Nicholas wrote to Washington: "I confess myself astonished to hear the nomination which is made for this office, at a time when perhaps more than half America have determined it to be unsafe to trust power in the hands of this person however remotely it is connected with many of the odious traits in his character—at a

for the depredation on our trade, was rejected in the Senate. Upon the question on the first section w^h^ determined the fate of the bill, Jackson[1] and Bradley[2] withdrew which left us 11. only against 14.: in consequence of w^h^ every sect. was negatived, yet a question was notwithstanding taken whether the bill sho^d^ be read a 3^d^ time and in favor of which these gent^n^ voted, & Ross the successor of Gallatin taking into his head now to withdraw, the house was equally divided & the casting vote given by V. President agñst it.[3] Thus the bill was lost, the most mature and likely to succeed of all the propositions respecting G. Britn. w^h^ have been presented before the legislature during the session. Its fate may be ascribed to an executive manœuvre; for whilst it was depending in the Rep^l^

time when at least one half the Legislature are afraid to exert themselves in the most trying situation of their country, lest his present powers should enable him to wrest them to purposes which he is supposed by them to entertain & which they dread more than the open attack of Great Britain—at a time when this person is the avowed friend of Great Britain in the most infamous contest, when all his measures have tended to throw this country into her arms & many entertain suspicion with some grounds that the present hostility of that country to this is partly intended to aid his well known attachment to it—to appoint him to an office in which he could immediately and successfully advance his purposes would be to stake the American happiness on the justice of one of two opinions when both are advocated by equal numbers. Every man in a republic is a centinel on public safety and the warnings of danger should be listened to rather than the assurances of safety from the importance of the consequences which may follow."

[1] James Jackson, Senator from Georgia, 1793–95.

[2] Stephen R. Bradley, Senator from Vermont, 1791–95, and again 1801–13.

[3] "It was not on this single occasion that questions, to which great importance was attached, were decided by the Vice-President. So nearly balanced were parties in the Senate, that it was frequently the fate of that officer, during the present session, to determine points in which both the administration and its opponents took a deep interest."—Marshall's *Life of Washington*, vol. v., p. 547.

branch & obviously a great majority in its favor, the nomination of Mr Jay was introduc'd, as Envoy Extr? for the British court.[1] From that moment it was manifest the measure wod be lost, and altho' it passed the other branch & perhaps with greater vote than would have been the case, had not the sense of the Senate been clearly indicated by the approbation of the nomination, yet it was plain the prospect of success was desperate. An Extr? mission was a measure of conciliation, it was urged; prohibitory regulations were of a different character & wod defeat its object. Thus you find nothing has been carried agñst that nation, but on the contrary the most submissive measure adopted that cod be devised, to court her favor & degrade our character.

Tis said that the Envoy will be armed with extr? powers, & that authority to form a commercl treaty will likewise be comprized in his instructions. Under a similiar power upon a former occasion, granted too by implication only, this person had well nigh bartered away the Mississippi. What then may we not expect from him upon the present crisis, when the power is expressly granted and the fortune of the party whose agent he is, may be considered as hazarded in the success of his mission? After degrading our Country

[1] "My objects are, to prevent a war, if justice can be obtained by fair and strong representations (to be made by a special envoy) of the injuries which this country has sustained from Great Britain in various ways; to put it into a complete state of military defence; and to provide *eventually* for such measures as seem to be now pending in Congress for execution, if negotiation in a reasonable time proves unsuccessful."—Washington to Edmund Randolph, on Jay's nomination. Ford's *Writings of George Washington*, vol. xii., p. 419.

by shewing to the world, that they were more willing to confide in retribution &c from their justice & favor, than from the strength of our union & the decision of our councils, will this man return baffled in the enterprize, & seek to atone for himself & those who sent him, to the community, by owning his and their folly which had exposed us to such humiliation ? And when it is considered that Britain contemplates the conquest of the French & perhaps afterwards of the Sph Islands, & the downfall of the Sph power in this region of the world—a course of policy which will part her not only from Spn but perhaps from the present combination of powers, is it not probable she will be disposed to seek an alliance here as well for the purpose of aiding her in these projects as detaching us from France? Some symptoms of discontent have already appeared in the Spn cabinet, and these it is probable will be increased when the conquest of Britn in the Islands is attended to, and her views become further developed. The circumstance of sending an envoy to negotiate with Engld at the time that the Minister of France, on the ground & cloathed with similar powers, is only amused with acts of civility, shews that a connection with the former power is the real object of the Executive.

The present French minister expressed lately the wish of his country that G. Morris shod be recalled & in consequence arrangmts are making for that purpose. Being forced to send a republican character the admn was reduc'd to the dilemna of selecting from among its enemies or rather those of opposite principles, a person who wod be acceptable to that nation. The

offer of the station has been presented to Ch^r^ Livingston as I hear in a letter written by the President.[1] Tis tho^t^ he will accept it. Burr's name was mentioned to Randolph but with the success that was previously expected, indeed it was not urged in preference to the other, but only noted for consideration. I thank you for the intelligence respecting my farm near you. I think we shall adjourn in ab^t^ 3 weeks after w^h^ I shall immediately proceed home. Mrs M. joins in best wishes for y^r^ health & that of y^r^ family. Sincerely, I am, Dear Sir, your friend & servant

Ja^s^ Monroe.

TO THOMAS JEFFERSON.

Phila., May 26, 1794.

Dear Sir,—The session begins to draw to a close. The 3d. of June is agreed on by both houses as the day on which it shall end, and I believe the agreement will be executed. The inclosed paper will shew you the state of things with Engl'd. This incursion[2]

[1] To Robert R. Livingston, April 29, 1794: "Private. Circumstances have rendered it expedient to recall Mr. Gouv^r^ Morris from his mission to the Republic of France. Would it be convenient and agreeable to you to supply his place? An affirmative answer would induce an immediate nomination of you, for this appointment to the Senate; and the signification of your sentiments relative thereto, as soon as your determination is formed, would oblige me particularly, as it is not expected that that body will remain much longer in session." May 10th, Livingston replied to Washington, placing his reluctance to accept the appointment on the difficulty of making *immediate* arrangements for a permanent residence abroad. Washington's wish was to accommodate Livingston, as far as the public service would permit. May 14th, Washington had not decided, as he was awaiting Livingston's answer to his question: "What would be the shortest possible time necessary for his preparations."

[2] "The intelligence which has been received this morning is, if true, hostility itself. The President of the United States has understood, through channels

into our country has no pretext to be call'd or considered otherwise than an actual invasion; and as such I presume it will be treated by the President whose powers are competent by the existing law to its repulsion. The Govr. of Pennsyla. has a small force within 16 miles of Presque Isle, & intends taking possession of the latter post. Within a few days past however it has been notified to him by some Indians that it will be opposed, and in consequence thereof he has ordered out 1000 of the western militia to secure the lodgment. I suspect however these movements were dictated in Nov'r. last and sho'd not be considered as an indication of the temper of the Engl'h. Ct. at present. They may even be disavowed if a change in circumstances requires it. The incident has been seized, you will observe, as a ground for pressing an increase of the military force, in consequence of which a proposition was immediately introduced into the Senate for authorizing the President to raise 10,000 additional troops under provisions more popular than those rejected in the Rep's. and of course more likely to succeed even there. In the Senate it will pass immediately, for the republican party is entirely broken in that branch. Thus it results that thro' the influence of the Executive aided by the personal weight of the President, the republican party notwithstanding its systematic & laborious efforts has been able to accomplish nothing which

of real confidence, that Governor Simcoe has gone to the foot of the rapids of the Miami, followed by three companies of a British regiment, in order to build a fort there."—The Secretary of State to Mr. Hammond, May 20, 1794. *Am. State Papers—Foreign Relations*, vol. i., p. 461.

might vindicate the honor or advance the prosperity of the country. I believe I intimated to you in my last that the President had offered to Mr. Livingston, after the refusal of Mr. Madison, the legation to France in the place of Gr. Morris who would be recalled. That Colo. Burr had been a competitor. Since that time Livingston has declined and Burr has continued, under auspices very favorable to his success, sole candidate. Present appearances authorize the belief he will be appointed. Of course he goes as a republican and I am inclined to think the President supposes he lays that party under obligations to him for the nomination, for I am persuaded in addition to other considerations he really surmounts some objections of a personal nature in making it.[1] But when it is known that the Jersey members, Judge Patterson &c. have promoted his interest, our confidence in the steadiness of his political tenets will not be increased. We shall be with you as soon as possible after the adjournment. Sincerely I am yr. friend & servt. JAS MONROE.

As Mr. M. gives you the paper containing the correspondence referred to, and the others contain nothing, I send none.

[1] The Secretary of State to Washington, May 22d: "E. Randolph has the honor of returning to the President, the list which was yesterday put into his hands; and at the same time incloses a letter from Mr. Frelinghuysen as to Mr. Burr. In a conversation with Mr. Madison, his opinion appears to be decided, that the Constitution does not incapacitate Mr. Burr; and that he is a proper person. An objection seems to be ready in the mouth of some for young Adams; as being the author of some pieces, signed Publicola, about two years ago.—Fauchet did not appear to know Franklin, nor his character; nor yet to feel any attachment to him."

TO JAMES MADISON.

PHILA., May 26, 1794.

DEAR SIR,—I have been with Mr. Randolph & have given him no final answer. The fact appears to be that the message to me was directly from the President, so that a decision settles it—He has also had an interview with Mr. Dayton.

May I request of you to go to Mr. Randolph, & settle the matter with him. I promised him you wo'd in the course of ½ an hour. If it has not the approbation of my few friends & yourself in particular, I certainly will decline it.—Weigh, therefore, all circumstances & paying as little regard to private considerations as sho'd be, tell him for me what answer to give—I write in haste in the Senate, being engaged on the balance bill[1]—Y'r friend & servt,

JA.S MONROE.

An answer must be given the President immediately.

TO THOMAS JEFFERSON.

PHILA., May 27, 1794.

DEAR SIR,—Early yesterday[2] morning & immediately after my last was written I was called on by Mr. R. to answer the question "whether I wod. accept the legation to France?" The proposition as you will readily conceive surprised me, for I really thought I was among the last men to whom it wod.

[1] Making provision for the payment of the interest on the balances due to certain States upon a final settlement of the accounts between the United States and the individual States.

[2] Monday.

be made, & so observed. He said the President was resolved to send a republican character to that nation; that Mr. Madison & Chr Livingston had refused, that he wod. not appoint Colo. Burr, lest it shod. seem as if he sought persons from that state only, & probably it would not have been offered to L. but on acct. of his having been in the department of foreign affairs & under these circumstances & considerations he was desired by the President to call on me & ascertain whether I wod. act. As I had espoused B. I told Mr. R. I could not even think on the subject whilst there was a prospect of his success. He assured me he was out of the question, & if I declined, it wod. probably be offered to Govr. Paca of Maryld. or some person not yet thot. of. That he would satisfy the friends of Colo. Burr on this head. Before I wod. consult my friends I requested that this be done—& in consequence the above assurance was given some of them, & I presume they were satisfied. This point of delicacy being removed, I then desired Mr. Madison in conference with a few of our friends to determine what answer shod. be given to the proposition. The result was that I sho'd. accept upon the necessity of cultivating France; & the uncertainty of the person upon whom it might otherwise fall. An answer was accordingly given last evening to the President to that effect, & the nomination sent in to-day. I have not attended nor shall I till after that body shall be pleased to decide upon it. If approved, it is wished that I embark immediately for France. I am however extremely anxious to visit

Albemarle before I set out taking Mr. Jones in my way. But whether I shall be able to visit either of you is uncertain, & will depend in a great measure upon the practicability of getting a vessel about to sail, in a term short of the time, it will take me to perform the journey—upon this head however I can say nothing until the nomination is decided on, nor can I say how the decision will be, for my services in the Senate have given me but little claim to the personal regards of the reigning party there. I suspect the nomination created as great a surprise in that house as the proposition to me did, yesterday morning. As yet I have not seen the President—I shall write you more fully in my next—With great respect & esteem I am

Yr. affectionate friend & servant

JA.S MONROE.

Govr. Mifflin's movement[1] has been suspended by the President.

TO GEORGE WASHINGTON.[2]

PHILADELPHIA, June 1, 1794.

I was presented yesterday by Mr Randolph with the commission of Minister for the French Republic, which you were pleased, with the approbation of the Senate, to confer on me. As I had previously intimated to him my willingness to accept that trust, I have only now to request that you will consider me as

[1] Against the British, ante, p. 296.

[2] From Monroe's retained draft, the original not being among the Washington Papers.

ready to embark in the discharge of its duties as soon as I shall be honored with your commands and a suitable passage can be secured for myself & family to that country.

In accepting this very distinguished mark of your confidence, I should do injustice to my own feelings if I did not express to you the particular obligation it has conferred on me, and assure you of the zeal with which I shall endeavour to discharge the duties of so high a trust in a manner that may justify the Executive in committing it to me. On that zeal but principally on the councils which will direct my conduct I rely, as the resources which are to supply the inadequacy of my abilities to a station at all times important and at the present crisis peculiarly arduous and delicate. Be assured however it will be my study & give me the highest gratification to have it in my power to promote by my mission the interest of my country & the honor & credit of your administration which I deem inseparably connected with it.

TO THOMAS JEFFERSON.

PHILA., June 6, 1794.

DEAR SIR,—Since my appointment I have been extremely occupied in a variety of respects—I had likewise flatter'd myself with the hope I shod. see you before my departure till within a day or two past—but of this I now begin to despair. I shall sail from Baltimore, for which place I set out in 4 days hence. 'T is possible the vessel may not be ready altho' I am

advised she is. I feel extremely anxious upon the subject of a cypher—our former one is in a small writing desk at my house. Can you get it & send it after me in case I do not see you before I sail? Danton has been executed,—the charge the plunder of publick money—the King of Prussia withdrawn—& the British driven from Corsica—I will write by the several succeeding posts whilst I stay

I am yr. affectionate friend & servt.

JA^{S} MONROE.

APPENDIX I.

APPENDIX I.

SOME OBSERVATIONS ON THE CONSTITUTION, &C.*

GENTLEMEN,

When you did me the honour to elect me into the Convention, to decide for you upon the constitution submitted to the states from Philadelphia, I had not at that time examined it with that attention its importance required, and of course could give you no decided opinion respecting it. Other cares had unavoidably taken my attention from it. After you had reposed that trust in me it became my duty to pay it a more serious attention. Having given it the best investigation that my limited capacity is capable of, and perhaps formed in some measure my opinion respecting it, subject however to alteration when I shall be convinced that I am in an error, I should think myself unpardonable if I witheld it from you. To you it belongs to approve or correct this opinion, for

* Containing Monroe's objections to the Constitution, intended to have been addressed to his constituents eight or ten days before the meeting of the Virginia Convention. He considered it loosely drawn and suppressed it for this reason as well as on account of the delay and incorrectness of the printer. (*See* his letter to Jefferson of July 12, 1788, page 188). The copy from which this print is made is a small 4°, pp. 24. pages 1 and 2 with title (?) missing. It was found very recently by Mr. John P. Weissenhagen, of the Bureau of Rolls and Library, Department of State. Its existence has been hitherto unknown, for it is not to be confounded with the defence (Appendix II). On this unique copy is pasted a half sheet of paper, apparently part of a wrapper, on which is addressed in an unknown handwriting: "Honble James Monroe, Oak Hill, Loudon County, Virginia." On this same sheet is written in another hand: "Mr. Monroe's Pamphlet Convention 1788," and also these words, in *Monroe's* handwriting: "erasures made in some instances improperly." I query whether this copy be not that sent by the printer to Mr. Monroe and hurriedly corrected by him. The other copies being suppressed leaves this in all probability the only one in existence. (Compare with note to Appendix II.)

although it would give me pain to be compelled to take a course which my own mind did not approve, yet I have too high a respect for your rights, too just a sense of my duty, and too strong an impression of gratitude for the confidence you have reposed in me, to act contrary to your wishes. Under this impression I have thought proper to make to you the following unreserved communication of my sentiments upon this all important subject.

It will readily occur to you that this plan of government is not submitted for your decision in an ordinary way ; not to one branch of the government in its legislative character and confined under the constitution to the sphere it has assigned it ; but to the people to whom it belongs and from whom all power originates, in convention assembled. In this situation your present state constitution was, or should have been, formed, and in this situation you are of course able to alter, or change it at pleasure. You are therefore to observe that whatever act you now enter into, will be paramount to all others either of law or constitution, and that in adopting this it becomes in reality the constitution of the state, and binding on you as such. Whether it will absolutely annul and do away that of the state is perhaps doubtful ; my own apprehension is it will not, except in those cases wherein they disagree ; in these it will of course prevail, and controul all the departments of the state government, being the ulterior act of the people. You will therefore perceive it is a subject of great extent and importance upon which you have to decide, and that you owe it to your country, yourselves, and posterity, that it be well examined in all its consequences before it is determined.

When we contemplate the causes that might probably have contributed to make it necessary to submit to your decision the propriety of such a change in your political situation, we are naturally led into one of the following conclusions—either that the morals of the people have become corrupted—that the passions of mankind by nature render them unfit for the enjoyment of equal liberty, or that the form of the government itself under which we live is radically defective, and capable of such improvement, as will extend to us its blessings in a higher degree, and make them of longer duration. Believing firmly that the body of the people are virtuous, at least sufficiently so to bear a free government ;

that it was the design of their Creator in forming such an order of beings that they should enjoy it, and that it is only by a strange and unaccountable perversion of his benevolent intentions to mankind, that they are ever deprived of it, I will proceed to examine the latter hypothesis which supposes such defects in the present form, as to make a change advisable. If we find that they really do exist, I will then proceed to suggest such remedies as will enable us comparatively to determine on the merits of that supposed to be substituted in its stead. I feel myself deeply impressed with the importance of this undertaking and am too well acquainted with my own inability, even to hope that I shall conduct myself with propriety through it; but from a sincere desire to establish a perfect good understanding between us, and prevent the possibility of any future anxiety on this subject, I find myself constrained however painful it may be, and however ungracefully I may do it, not only to avow my sentiments respecting it, but the principles on which they are founded.

The present states were separate, from their first colonial establishment until the encroachments of Great Britain, compelled them into an union for their defence. But as their combined efforts soon promised to erect them into independent governments, the consideration which had united them for a time, and for the accomplishment of one object only, became perpetual, and the wisdom of their councils suggested the propriety of provisions that would secure them from like dangers forever—under this impression they entered into the articles of confederation on the — day of —— —— 178 . To this instrument or bond of union therefore we are to look for the strength, or imbecility, for the perfection or demerits, of the present fœderal government. As this is the system whose defects we have to remedy, it will be proper to present to your view concisely a summary of its powers.

The powers which have been given by these articles of agreement or confederation to the general government are extensive. They are to be found principally in the 9th and the 6th articles, in the former positively, and in the latter negatively by a qualification of the rights of the individual states. By the 9th, the United States are authorized to make war and peace—send and receive ambassadors—enter into treaties with alliances, provided

that no treaty of commerce shall be made whereby the legislature of the respective states shall be restrained from imposing such duties on foreigners as their own people are subject to, or from prohibiting the importation or exportation of any species of goods or commodities whatsoever—establishing rules for deciding what captures shall be legal by land and water, and how appropriated; grant letters of marque and reprisal in time of peace—appoint courts for determining finally in all cases of captures; appoint courts for the decision of territorial controversies between states and individuals claiming lands under different grants from two or more states, whose jurisdictions respecting such lands have already been adjusted by the said court,—coin and regulate exclusively the value of coin throughout the United States—fix the standard of weights and measures—regulate the trade with the Indians not members of a particular state—establish and regulate post-offices—appoint all officers of land and sea forces, except regimental; make rules for their government and regulation and direct their operations—ascertain the necessary sums of money to be raised for the service of the United States, appropriate, and apply the same—borrow money and emit bills of credit on the faith of the United State—build and equip a navy—agree on the number of land forces and make requisitions for the same. Provided that none of the said powers shall be exercised without the consent of nine states. By the 6th, the individual states are prohibited from sending or receiving embassies, entering into conferences, treaties or alliances with any foreign power, and the servants of the United States or individual states from holding offices of profit or trust under any foreign prince or potentate whatever—from partial confederacies without consent of Congress—from keeping up troops or vessels of war in time of peace except such as shall be approved by Congress—entering into a war with a foreign power unless invaded by an enemy—from granting letters of marque or reprisal except after declaration of war by the United States and then under particular restrictions only.

These articles give all the efficient powers to the United States—The 1st, 3d, 4th, 7th, and 8th, although they establish some fundamental principles on which the government is to move, and especially the 8th the rule of apportionment, yet they give no real

power; they are rather the rule by which the power already given is to be used than that they give any themselves. The 10th, 11th, 12th and 13th, fall still more under this exception or regulate other inferior objects of compact. But the 2d and 5th are of a different impression. By the former, each state retains its sovereignty, freedom and independence, and every power, jurisdiction and right, not expressly delegated to the United States, and by the latter, that of appointing, continuing, or removing its own delegates at pleasure. These are the powers, and this the form, of the present government.

An attentive view of the subject will satisfy us that these powers are really great and extensive; they appear to have contemplated the greater part of those concerns wherein it might be supposed they had a national interest. Having made the United States the sovereign arbiters of war and peace, given them the right to require men and money, equip fleets and armies, to send and receive ambassadors, make treaties of alliance and commerce, with the very extensive catalogue which I have already enumerated, except the regulation of trade there seemed to be little left of external policy to the individual states. It is not my object to enquire here whether these powers should be more extensive. I may in the course of these observations; at present I shall examine more particularly the effect or operation of a government organized like this.

It is to be observed that by the 2d article the individual states retain their respective sovereignties, jurisdictions and rights in all cases not expressly ceded to the confederacy. And by the 5th they reserve the right of appointing, continuing or removing their respective delegations at pleasure. To these articles we are to look for the tone and character of this government, for upon these does its good or bad qualities depend. It is upon this point, that the present commotion hath taken place in America, and upon the merits of which we have to decide.

The deputies from each state being amenable for their conduct, and depending on it for their hopes and prospects, necessarily negociate for its interests. This property or distinction pervades the whole body, and thus their general council or the Congress becomes a diplomatick corps, or a corps formed of ministers or

representatives from sovereign states acting for whatever may be the powers of the union over the several members that compose it, will be to shield itself from the common burdens of the government; and to effect this all the arts of intrigue and negociation will be constantly exerted. What is the obvious course of a government organised on such principles? Are not the seeds of dissolution deeply engrafted in it? The most powerful principles of human action the hope of reward and the fear of punishment are in the hands of each state, and whilst mankind are subject to their influence, or the passions and affections of the human heart continue as they have been, its course will always be the same. This government it is manifest can never be an efficient one. Strong necessity and emminent danger may make it so occasionally, but whenever this cause ceases to operate, its repellant principles will prevail. If this position is just, I am perhaps right in supposing it a consequence necessarily resulting from it that the stronger the powers of the government are, the more repellent will its qualities be, and the sooner its dissolution; at least certain it is that the conflict between the general and state governments, will be proportionally more violent, and its or their ruin the sooner accomplished, for it must soon terminate either in that of the one or the other, I mean as an efficient government. The higher toned those of the states were the more rapid would the progress be. I think I may venture to affirm that a confederacy formed of principalities would not last long, for the pride of princes would not brook those familiarities and insults which a free discussion of rights and interests, especially if they interfere, sometimes unavoidably occasions; and when an absolute prince takes offence he wields the state with him. But this is not the case with democracies, for although their chief magistrates may be offended, yet it is difficult for them to communicate at the same time, the same passions and dispositions to the whole community which they themselves possess. This is a caution however which I hope it is not necessary to suggest here, for I am satisfied the state governments will never take this turn of themselves, nor whilst that of the confederacy is preserved and properly supported. But to carry this government a little further into practice.

Let us submit the concerns and interests of different states or

individuals within them to this corps formed of representatives from each negociating for that to which they respectively belong, and what kind of justice may we expect from its decisions? If magazines were to be established or troops raised and stationed in some quarter of the union for public defence, might we not expect that these arrangements would take stronger byas, from the combination of the day, than any sentiment of propriety? If states or individuals within them had claims founded on the same principles with those upon which a decision had already been had in favour of others, are we to calculate with certainty upon a similar decree? In short apply it to every case that may possibly arise, either of states or individuals, in the full scope of its powers, and we shall find its decisions depend, more upon negociation, the bargain of the day, than any established maxim of justice or policy.

On the other hand how are its treaties, laws, or ordinances to be carried into effect? Are they of authority and in force immediately within the states as soon as they are passed? Or does it require the intervention of a state law to give them validity? And if the law is necessary may not the state refuse to pass it, and if she does how shall she be compelled? It is well known from the practice of all the states in the confederacy that no act of Congress, of what nature soever it may be, is of force within them, until it is recognized by their own legislatures; prior to that event it is a nullity, and to that only does it owe its authority. This view of the subject demonstrates clearly that the present government, in its ordinary administration, though a league of independent states for common good, and possessed of extensive powers, must always be void of energy, slow in its operation, sometimes oppressive, and often altogether suspended—that it can never be calculated on by foreign powers, and of course that they will form no treaties or compacts whatever with it, that stipulate anything, at least on equal terms, that in fine very little dependence can be placed in it by the states themselves, for destitute of the power of coercion, to say nothing as to the justice or propriety of the measures themselves, *these* will not be forward to comply with its demands, whilst *those* may refuse with impunity. On the other hand the illustrious event which hath placed them

in the rank of independent states demonstrates with equal certainty, that it is competent to external defence, and perfect security from abroad, for how otherwise could it have been atchieved? These are the defects or the principal defects of the present government, and they are inseparable from a league of independent states, for to that circumstance, and that alone they are to be attributed. We have then to weigh these evils, and compare them with the probable benefits and dangers that may accompany a change, and then see in which scale the balance preponderates.

It may be now asked are we reduced to this alternative either to subvert the state sovereignties or submit to these evils? Is the state sovereignty a vain and illusory hope, is it incompatible with its own and the general interests of the confederacy? Or is there any other alternative? The practice of nations and the field of enquiry is open before us, and we have everything that is sacred and dear to mankind depending on the event. Two species of remedy only present themselves to my mind, and these contemplate either a complete annihilation of the state governments, or a partial one with considerable reduction of their powers. A complete annihilation and the organization of a general government over the whole, would unquestionably remove all the objections which have been stated above, and apply to it as a fœderal government; and I will be free to own that if it were in reality a practicable thing, there is no object which my mind has ever contemplated, the attainment of which would give it such high gratification. To collect the citizens of America, who have fought and bled together, by whose joint and common efforts they have been raised to the comparatively happy and exalted theatre on which they now stand; to lay aside all those jarring interests and discordant principles, which state legislatures if they do not create, certainly foment and increase, arrange them under one government and make them one people, is an idea not only elevated and sublime, but equally benevolent and humane. Whether it contains within it a territory as extensive as the Russian or German empires, or is confined in its operation to the narrow scale of their smallest principalities or provinces, yet it is the business of state legislation to pursue its destined course "the interests of those

who live under it." For a legislature to contemplate other objects, and make a sacrifice of their own for the good of other people, or even decline availing itself of the legitimate exercise of its powers for that purpose, upon every opportunity which chance or fortune may present in its way, is a degree of liberality to which the human heart hath not as yet attained. A society of philosophers of the ancient stoick sect might perhaps be capable of such extended philanthropy, but this sect is now altogether at an end, and at its height, never formed but an inconsiderable part of any community, and was by all the rest of the world considered as affecting objects without the pale of human nature. How much more delightful therefore is it to the mind to contemplate one legislature organized over the whole continent, containing all the free inhabitants of the American states within it, nourishing, protecting, and promoting their interests in every line and extending its genial influence to every part; commerce flourishing, arts increasing, lands rising in value, with all those other happy concomitants that attend a well formed and wisely directed government, than thirteen different legislatures, in pursuit of local objects, acting upon partial and confined considerations, without system or policy, jealous of their particular rights, dissatisfied with, and preying upon each other. If it were practicable, I should embrace this change with the utmost pleasure, and consider it the goal at which all our efforts should bend, the polar star that should direct all our movements. I should consider the abolition of the state legislatures as a most fortunate event for America, and congratulate my country on the commencement of a new æra in her affairs from whence to date the dawn of better hopes and happier days. But is it practicable, can it be accomplished? Can a legislature be organized upon such principles as to comprehend the territory lying between the Mississippi, the St. Lawrence, the Lakes, and the Atlantic ocean, with such a variety of soil and climate, contain within it all the vital parts of a democracy, and those provisions which the wisdom of ages has pointed out as the best security for liberty, and be at the same time a strong, efficient, and energetic government? Would it be possible to form in every respect a complete consolidation of interest and how otherwise would its operation affect the weaker

party? Or to accommodate its legislative acts so as to suit those of a local kind that were variant in the nature of things? To form a system of revenue, by direct taxation and excise, regulate the mode of collection, supervise it, without the establishment of a train of officers, and tribunal under tribunal, that would not be enormously expensive, free from more than ordinary imposition, and preserve the spirit of the government? Separated at the distance of near 1200 miles, suppose the disposition to do right the best that nature can infuse into the human heart, generally speaking, in the operation of the government, will the man of Georgia possess sufficient information to legislate for the local concerns of New-Hampshire? Or of New-Hampshire for those of Georgia? Or to contract it to a smaller space of New-York for those of Virginia? Will not of course most of its measures be taken upon an imperfect view of the subject? A wise legislator should possess a precise knowledge of the situation, and interests of all the territory, and of the state of society, manners, and dispositions of the people within it committed to his care. Some men perhaps to whom a kinder fortune had dispensed her more liberal gifts, who had devoted their earlier life to travel, general science, and those researches that were particularly necessary for it, might succeed, but unfortunately for us the most sanguine admirer of this plan, could not promise to America that her national councils, should always be filled with men of this stamp. I would not wish to discolour this plan of a complete national government, acting in all cases for the common good, to the exclusion of subordinate legislatures, so delightful in theory, with the reverse of this picture, nor to depaint those consequences which might result from its maladministration, if instead of the best qualities that are the portion of humanity, it should be its fortune to have its councils filled, with men remarkable for their ignorance, or any great malignity of heart, contending against difficulties, under its best form and with its best hopes, which perhaps are insurmountable, what would be its situation and issue in that event? As this subject is of great importance and leads to a decision upon an important trait in the plan of government now before you, it will be proper to give it a more particular investigation.

Perhaps an attention for a moment in this respect to those po-

litical establishments which have been erected in different quarters of the globe, in ancient and modern times, may furnish an instructive lesson, upon the present occasion. In but few instances, and those at distant intervals of time, hath a democracy or government of the people ever been established. To what cause it is to be attributed, philosophers and statesmen may differ, but it is an unquestionable truth, that there hath been a constant effort in all societies, to exterpate it from off the face of the earth. The contest hath been often violent, and the manly exertions which the friends of equal liberty, have made against this disease of human nature, is the great, the instructive subject of history. They have had to contend against difficulties thrown in their way by all ranks of society: If the poor and those in moderate circumstances only, where an union might have been expected had united, a tyranny had never been erected. But the ignorance, the folly, and often times the vices of the lower classes have perhaps favoured this tendency as strongly as the lust for dominion and power in the wealthy. To illustrate this position by a review of the commencement, progress, and decline of those nations with which history furnishes us examples, with the causes that have contributed to hurry them to this their last stage, would not only present to your view a melancholy monument of the weakness of human institutions, but lead me beyond the bounds of the present enquiry. Be assured however there is no fact better established by history, than this tendency or effort in all societies, to defeat the purpose of their own institution, and terminate in despotism. If then we are not the unfaithful guardians of those rights, which an all gracious providence hath bestowed upon us, should we not attend to every circumstance that may contribute to preserve them? And will it be questioned, that the extent of territory is one of those that will have no influence on the subject? The governments that have been purely democratic, to which only we should resort for satisfactory information on this head, if any ever were, are but few. In several it is true the people have had some share of power, as in that of Rome. But it cannot be questioned that in this the Nobles or aristocracy had the prevailing influence. The endless quarrels between the different branches or rather orders of the people, the Senate and

plebians, is perhaps the real cause of the perpetual warfare and extensive conquests, made by this rapacious mistress of the world. When the people became incensed against the Senate, as they often had reason to be, the latter had always sufficient address, to give their passions other objects to act on, by turning them against foreign powers. With this view it seems to have been a political maxim with that branch, in whose hands the executive authority was also lodged, never to be at peace with all nations at the same time, and in this they succeeded tolerably well, for from the commencement to the final dissolution of the empire, the temple of Janus, always open in time of war, if we may credit the traditions of their best historians, was hardly ever closed. But so soon as the whole globe had acknowledged her authority, and bowed beneath the yoke, the immense fabric she had thus raised fell to pieces. External opposition that had raised it to the height it had attained, having ceased, its foundation was taken away. There was no principle within it to unite its parts together. From this it is to be presumed that if her government had been organized upon harmonious principles, and made the people happy under it, her dominion would never have extended over more than one-tenth the territory it did. But be this as it may, the government of Rome acknowledged distinct orders of people, in which indeed the aristocracy prevailed, and can of course furnish no example for us. This may be said of Lacedemon and Carthage, for according to the opinion of a profound historian and observer on the subject of government, that of Carthage was also divided and the greater portion of power taken from the people and placed in the hands of the aristocracy.* If any ever were, Athens, Thebes, and Corinth, were for a time, pure democracies. But shall we draw our conclusion from their example, whose jurisdiction was more confined than that of some of our smallest states? In short, let us contemplate what forms, in what countries and times we please, where the rights of the people, and the spirit of liberty, were in any degree preserved, and we have the most solemn admonition to beware even making the attempt. The monarchy of Britain in which the executive power is armed with almost despotic authority, comprehends

* Polybius, vol. 3., page 92.

within it a territory smaller than that of this commonwealth, and yet it is believed its administration is happier than if it were more extensive. Even the king of France, sensible that his government will be happier for his subjects, and more faithful and beneficial for himself, has shown a disposition to re-establish the provincial assemblies for this purpose, yet it cannot be denied that his powers are otherwise sufficiently great, or that any monarch was ever, in a greater degree, or more deservedly beloved by his people. But if these examples are not sufficient to warn us of the fatal consequences that will attend the vesting such powers in the Congress, let us turn our attention to those nearer at home, and which perhaps will make a deeper impression on our minds, and do we not behold the province of Maine separating from Massachusetts, and Vermont from New York, Wyomin from Pennsylvania, and the district of Kentucky from Virginia, on this very principle, with others no less striking that might be enumerated.

It is true the improvement of government under this form, by representation, the discovery of which is attributed to modern times, might make some difference in this respect, but are there no bounds within which it should still be restrained? Shall it attempt things that seem from the concurrent testimony of all history to be the appropriate object of despotism? Maladies that are incurable after they have afflicted the body with all the pain and anguish incident, to a frail and feverish being, exhausted its efforts, and worn out its constitution, complete the work by terminating its existence. This government too, after having experienced the vicisitudes of fortune that might accompany its natural imperfections, of laws badly formed and indifferently executed, of anarchy disorder and confusion, after having worn out and broken the spirits of the people, would also have its end. But what form it would then assume is left for time to develop. The diseases of every government suggest its remedy. Other circumstances it is true give it a byas, but these have a principal influence in directing its course. Those of the federal system and which owed their birth and enormity to the want of strength in the federal head, had disposed the people to agree to an annihilation of their state governments, which yielded to the

present one. Had this change been accomplished, by the designs of wicked and abandoned men, by the usurpations of a tyrant, or the seductions of art and intrigue, it is to be presumed, and the experience of other countries hath approved it, that the people would now return to that they had forsaken, with a degree of zeal and fervor proportioned to the sufferings they had borne.* But if a long and patient experience had shewn its defects, a calm and dispassionate appeal had been made to their understandings, and a recollection of the great calamities, it had inflicted on them, demonstrated it was neither calculated, for the care of their liberties, their safety or common interests, they would make a new experiment and take a different course. From the causes above stated the incapacity of the legislative branch to form happy, wise, or uniform laws for the government of a territory so extensive, and of a people in pursuit of objects so opposite in their nature, had perhaps already often clogged its operations and suspended its course. This had gradually alienated the affections of the people and created in them a contempt for this branch of the government. The powers of the executive had of course been proportionably increased, for it is natural for the latter to supply the defects of the former. Accustomed to behold it in miniature, and to derive relief from its friendly interference, the people are at length prepared to have recourse to a Royal government, as the last resort the only safe asylum for the miserable and oppressed. And this perhaps would be the issue of the present government, and for these reasons I should dread its establishment over these states. For to however low and pitiable a condition we may have fallen; however deservedly we may have acquired the contempt and scorn of nations, yet I had rather submit in peace and quiet, to those reproaches which the proud and disdainful may throw upon us, than by commencing on a stage upon which the fortunes of all nations have been wrecked, however splendid and meteor like our transient exhibition might be, risk the enjoyment of those blessings we now possess.

But may not some middle course be struck, some plan be adopted to give the general government those rights of internal

* As in the restoration of Charles II. in England.

legislation necessary for its safety, and well being, in all cases and yet leave to the states other powers they might exercise to advantage? If by this it is intended to comprehend the right of direct taxation and excise with the absolute controul of the resources of the union, it will be easy to perceive its consequences. Those who are in any degree acquainted with the principles of government, or with those of the human heart well know that upon this point, the equal distribution of the resources of the union, between the two governments, will their balance depend. If you place the whole into the hands of one, it will require no casuist, no great degree of depth in this science to determine which will preponderate. Acting on the bowels the body will soon decay and die away. The pageant ornaments and trappings of power will not last long, for the reason and good sense of mankind turn with disgust upon the mockery of empty forms. Such an arrangement would therefore in my apprehension, embark us on a more perilous and stormy sea, than even a complete annihilation of the state governments.

If then such a government as I have above described in either view presents an impracticable alternative, or such an one as we should not without a nearer and better view of it embrace, the other mode only remains or that which proposes the organization of a general government over the states forming a part of and acknowledged by the constitution of each, leaving at the same time a qualified government in each state for local objects. Let us examine this then since it is the only safe or even plausible course for us to take.

To organize a general government, that shall contain within it a particular one for each state, or in other words, to form a constitution for each state, which shall acknowledge that of the union, is no easy thing, for there never was an example of the kind before, The amphictionic council, Achæan, Belgic, or Helvetic confederacies were but leagues of independent states, somewhat similar to the present one. To mark the precise point at which the powers of the general government shall cease, and that from whence those of the states shall commence, to poise them in such manner as to prevent either destroying the other, will require the utmost force of human wisdom and ingenuity. No possible

ground of variance or even interference should be left, for there would the conflict commence, that might perhaps prove fatal to both. As the very being or existence of the republican form in America, and of course the happiness and interests of the people depend on this point, the utmost clearness and perspicuity should be used to trace the boundary between them. The obvious line of separation is that of general and local interests. All those subjects that may fall within the former distinction, should be given to the confederacy, and those of the latter retained to the states. If the federal government has a right to exercise direct legislation within the states, their respective sovereignties are at an end, and a complete consolidation or incorporation of the whole into one, established in their stead. For in government it is, as in phisicks, a maxim, that two powers cannot occupy the same space at the same time. Let this therefore be the characteristic line of the division; internal legislation or the management of those concerns which are entirely local shall belong to the states, and that of those which have a foreign aspect, and in which they have a national concern, to the confederacy. In forming a constitution on these principles, the same rule should be observed, that has been in forming those of individual states; defining the powers given and qualifying the mode, in which they shall be exercised. All powers not ceded it is true belong to the people; but those given in a constitution are expressed in general terms, as that the Congress shall levy and collect duties; this involves in it the right of making laws for the purpose, for the means are included in the power; otherwise it is a nullity. The species of evidence and the mode of tryal are subordinate objects under it, and does it not follow that the Congress might regulate these at pleasure? How are we secured in the trial by jury? This most excellent mode of tryal which has been found, in those few countries where it has been adopted, the bulwark of their rights, and which is the terror of despotic governments, for it disarms them of half their power, is but a matter of police, of human invention; if then we gave general powers unless we qualified their exercise by securing this, might they not regulate it otherwise? I would not be understood to insinuate it would be the case, but that it were possible is improper. The spirit of the

times might secure the people of America perhaps for a great length of time against it; but fundemental principles form a check, even when the spirit of the times hath changed, indeed they retard and controul it. As it is with the trial by jury so it is with the liberty of conscience; that of the press and many others. As to the powers themselves, the distinction being drawn, the enumeration would be of course. To those of the former Congress some few might be added, or from those of the constitution, some few taken away, for nominally there is not so great a difference between them as some people suppose. To the former for instance, let the absolute controul of commerce with the revenues arising from it be added. Let the right of apportionment be as in the constitution, for the ground on which the states have met on that point is certainly a happy compromise being that indeed which had been long recommended by Congress. Let them regulate the discipline and training of the militia—the calling them forth and commanding them in service; for the militia of a country, is its only safe and proper defence. All countries are more or less exposed to danger, either from insurrection or invasion and the greater the authority of Congress over this respectable body of men, in whose hands everything would be safe, the less necessity there would be, to have recourse to that bane of all societies, the destroyer of the rights of men, a standing army. But it may be urged the revenues from the impost would not be sufficient for national purposes, and that without the right of direct taxation, the government would be forced to have recourse, to the expedient of requisitions, the inefficacy of which had already been sufficiently experienced. The position in the first instance, as to the insufficiency of the revenues is doubtful; but the apprehension of the states neglecting requisitions under this, as they have done under the late government still more so. When the United States became in effect a national government, by being incorporated with those of the states, possessed considerable revenues, had at their command a fleet and army, with the absolute controul of trade; I cannot but believe that their constitutional demands, or requisitions, would be complied with. Let the individual states also be restrained from exercising improper powers, making war, emiting paper bills of credit and the like.

All restraints that were necessary for the wise administration of a good and virtuous government, would have my ready assent. It is not my intention to draft a form, a general idea is all I aim at, and in this perhaps I am tedious.

Having defined the powers, marked the line between, and secured as far as possible the harmony of the two governments, by making the former a part of the latter, it will be necessary to organize it upon such principles, as to secure the wisdom and happiness of its adminstration; for I presume it does not necessarily follow, because the constitutional acts of the government will be executed and become the laws of the land in each state that our researches should be at an end, and that we should conclude we had remedied all the defects of the present one. On the contrary our anxiety should be increased tenfold. From that our safety was to be attributed to its imbecility; but from this we should not be able to shelter ourselves under that protection. We should therefore be the more zealous, proportioned to the prize we have at stake, to distribute the powers and poize the government, so as to secure equal justice in all its acts, to every part of the confederacy; for wretched and forlorn will the condition of that be, which shall not find itself equally secure under the protection, and in the enjoyment of its blessings, with every other part. From royalty itself, where the power is concentrated in one person, fluctuating in its systems and unsettled in its course, sometimes a ray of benevolence and even of justice is reflected on those whom it had marked out as the object of its resentment. Nature has cast into but few characters such malign and unfriendly dispositions, that their revenge cannot be satiated. But from a combination of states, acting systematically in pursuit of particular and local interests, wielding in their hands the powers of the government, and of course secure not only from censure but of the approbation and applause of those whom they served, however severely the attainment of the objects it contemplated, might bear upon the interests of the unfortunate minority, yet from their justice, it is to be feared, that neither moderation nor even mercy could be expected. But the present system is that we have to remedy and we should never lose sight of its defects. If the new government should be organized in the same manner

with the old, consist of one branch only, each state appoint her own delegates and recall them at pleasure, I am satisfyed it would in the administration in Congress, or passage of the acts, be found in the experiment in that respect just such a government as the other. There would be the same negociation, intrigue and management for the advantage of each state that now prevails. Its movements would be as slow and its decisions as unjust as they sometimes have been. In short it would still be a government of states in every respect and not a national one. How then shall we guard against, check and controul this intolerant and destructive state spirit? How infuse into all its departments a love, respect, and dread of the whole, for upon this every thing depends?

It has been long established by the most celebrated writers, but particularly illustrated and explained by the President Montesquieu and Mr. Locke, that the division of the powers of a government over one state, or one people only, into three branches, the legislative, executive, and judiciary, is absolutely necessary for the preservation of liberty. This is now admitted by all who are not the friends of despotism, and I am persuaded it has already been demonstrated in the course of these observations, that such a division is, if possible, more necessary in a government to be organized over more than one. Taking this position then as established, I will proceed to an examination of the principles upon which this organization should be formed.

If the states as such or in their legislative character appoint any of the officers of this government, the effect will be the same, provided the rotative principle is preserved, which will I hope never be given up, that has already been experienced; for in the appointment is involved that of responsibility. It should therefore proceed from the people immediately, or by means of electors chosen for the purpose. This will make them amenable to the people only for their conduct, or to such constitutional tribunals where they are practicable, as they shall establish to take cognizance of offences. This we apprehend would contribute much to the establishment of a national government; each would move in the sphere the constitution had appointed for it, and be accountable to the people only for their conduct, the high

and pure source, from whence they respectively derived their authorities.

The legislative branches are in all democratic governments, and of course would be so in this, the immediate representatives of the people. They should therefore be kept as dependent on them as possible, having in all respects the same interests with themselves. For offences in these branches the general government can provide no punishment, for there can be no tribunal under it, to take cognizance of them. Charges of corruption or prosecutions for it, or other offences, committed by those in these branches, should not be allowed from those in the others, for this might either unite them in mal-practices against their country, or create endless strife between them, and thereby destroy the balance of the government. A free people are the only proper judges of the merits of those who serve them, and they only should bring them to justice. This shews the necessity of frequent elections. The members of each should in my opinion return to the body of the people, those of the house of representatives at the expiration of every two years, and those of the senate of every four years, capable however always of re-election. Both these branches should if possible be filled on the principles of representation from all the states. For the house of representatives, the rule adopted in the constitution, is perhaps the proper one. Let twice that number, or a still greater ratio of numbers to that of representation, be the rule for the senate. The members of both branches should be incapable of appointment to other offices whilst in these, otherwise a wide door will be left open for corruption. This is not an idle or visionary precaution, but in a great measure the pivot, upon which the upright and faithful administration of the government will depend. The experience of Britain hath demonstrated, how often the most valuable interests of the people, have been bartered away, by leading members of the house of commons for a seat in the house of peers, or some lucrative office in the government; how much greater then should our apprehension be, of danger in the present instance, when we recollect that the government is organized upon such principles as to acknowledge no responsibility to the states, and comprehends within it such an extent of territory, as to put it

out of the power of those who inhabit its extremities, to have any knowledge of the conduct of their servants! The possibility of this kind of traffic should therefore be absolutely prohibited.

But the power of the legislature should be confined to those objects which were intirely legislative in their nature, as the regulation of trade, requisitions for money, and the like. The soundest authorities and the melancholy experience of our state governments have shewn the propriety of this restraint, in a constitution over one state, and for reasons that are obvious the expedience, will be the more urgent, in the present instance. Its natural effect in all cases is, to grasp to itself all the powers delegated from the people,* and to prostrate the other branches before it; stimulated on by the state spirit, which will in some degree still remain, the difficulty here will be proportionably increased. The ingenuity of man can devise no other, without an appeal to the people, which if possible should always be avoided, than that of giving the Executive, the other active branch an absolute negative on the laws; for otherwise its enterprizes must be successful. Many restraints might be designated by the constitution, but without effect. And from this at the same time that it preserved the balance of the government, no injury could be sustained. Against the encroachments of the Executive the fears and apprehensions of the whole continent would be awake, with a watchful jealousy they would observe its movements. But against the legislature (if we may reason by analogy of that branch in this) from those in other governments, no such apprehensions could be entertained. Its movements comparitively would be accompanied with the confidence of the people. Every encroachment upon its rights would be popular. In every contest between them it must of course yield the ground. In short unless the Executive had a negative on the laws of the legislature, it would soon exist only in name.

The right of impeachment and the mode of trial are of the first importance in this government. The former, if with the people or even the states themselves, would never be exerted or greatly abused; it should therefore belong to the house of representatives. And the latter should be vested in a court of that high confidence and respectability of character, as to partake of none of those

* De Loime.

passions that sway the bulk of mankind. Unconnected by office, and of course no way interested in the event; unacquainted with the crime except as it might appear before them by satisfactory testimony, they should hear calmly and judge dispassionately upon the merits of the cause. From their decision the guilty would receive a fair condemnation, or the innocent be restored again to the confidence of their country, and the people return satisfied that their passions had been awakened, and their fears alarmed without any just foundation. The sentence should be final, and not shifted off to another tribunal. A further prosecution may appear odious, and the just resentments of the people calm away, and totally subside. For these reasons the senate should form the court of impeachment.

But although the legislative branch shall be elected by the people, and amenable to them alone for their conduct, yet as the state sovereignties though qualified, will still remain, and of course the state spirit, in contradiction to a fœderal one, from necessity be more or less influential in its councils, we should turn our attention to the other branches of the government, as our firm resource. The Executive is that upon which, in many respects, we should rest our hopes, for an equal, a fœderal, and a wise administration. Every possible effort should therefore be used to expell from the hearts of those who fill it, a preference of one part of the community to another. The experience of other governments hath taught us, it is possible to devise checks, which from motives of policy and private interest, will even make bad men faithful public servants. The prospect of reward and the fear of punishment, as has already been observed, are the most powerful incentives to virtuous action. It should therefore be so organized, as to give every quarter indeed every man of the union, under the influence of the principles, as to those who fill it, an equal access to the human heart; whenever this equipoise is destroyed, and this high character taught to look up to this, or that state, or combination of states for the smiles or the frowns of government, from that moment will its oppression be felt, and a dreadful anarchy ensue. And if you take from those whom the choice of their country hath called forth to this high station, the hope of further favour, and mark to them the extent of service, after the comple-

tion of which the door shall be forever closed upon them, in that degree will you deprive yourself of one of the principal instruments by which you are to preserve the equilibrium, and secure the public safety. Discharged forever from the service of the United States, will not the approbation of the union, cease to be the ruling passion, and an accommodation to state interests take its place and influence many of the public measures? For these reasons I could wish to see the right of impeachment, extended upon as liberal ground as possible, given for instance to the representatives of one third of the confederacy; and I could likewise wish to see the citizen at the head of this department, capable of re-election at the expiration of his service which would be at the end of every three or four years, so long as he should merit the confidence of his country.

The mode of election should also be a fundamental in the organization of this branch. If the command of this office was placed within the reach of court influence, the most alarming consequences were to be apprehended from it. If the ultimate decision should happen at the metropolis, it is easy to be perceived what an opportunity this would present for venalty and corruption. It must be a great object particularly for either France or Britain to have the friend of their respective courts in this office, possessed of such extensive powers and which might dispense such important favors to them. The influence of the presiding magistrate himself, especially within the town in which he had for some time resided, and to whose citizens he had rendered many substantial services, and who of course would be averse to the introduction of a *novus homo* among them, would not be inconsiderable. In addition to which it is to be observed, that it forms a departure from a principle which should prevail through the whole, but particularly in the organisation of this branch, a dependance of this officer, for every thing estimable among mankind, upon the people of America. By the people therefore should the appointment be made, not in person, but by the means of electors chosen for the purpose. To prevent the possibility of any interference, or byas on their free election, that of the electors by the people, should be on the same day in every state, and that of the President by the electors likewise on the same day and at some specified place

in each, unless an invasion, or other extraordinary circumstance should prevent it; in which case perhaps the electors themselves, or the executive of the state might appoint some other. Whatever time might be employed in this mode of election is immaterial; it is of the first importance, and should never be dispensed with, that he be thus appointed.

But high powers in the Executive branch require in every respect, a direct and immediate responsibility; for although it should be so organized as that whilst to those who fill it, and act with propriety in the discharge of its functions, the door should be left open for a continuance of public favour, yet the sword of justice should be held constantly suspended over the heads of those, who shall be convicted of having barely sacrificed the interests, or made attempts upon the liberties of their country. There should be no constitutional restraint, no equivocation of office, to shield a traitor from the justice of an injured people. No circumstance to blunt or turn aside the keen edge of their resentment. With the charge should the powers of his office cease. He should stand alone unsupported, and unprotected except by the integrity of his heart and the rectitude of his conduct. For these reasons the executive power should be vested altogether in one person; unrestrained by a constitutional council, its operations will be more easy and regular, and its responsibility the greater and more immediate. And for these reasons if there is a constitutional council it must be from its nature the most improper tribunal, that can be formed or conceived, for the tryal of the offences of the principal, since they must be either partakers of the crime, or some way or other a party interested in it.

With an Executive organized on these principles, being independent of the legislature, and in a very responsible situation, I should be well content to entrust great powers, because I should calculate with tolerable certainty upon an honest and a wise execution of them. The constitution perhaps suggests those, with some exceptions that are proper; whether it would be safe to give it the absolute controul of the fleet and army at all times, in peace and war, the ordering them out, and laying them by, without consent of the legislature, or even knowledge, is at least doubtful. In Great Britain this power may be committed to the

King with propriety ; but he is the Lord of hereditary dominions, and transmits the inheritance in his line forever. By betraying his trust he might lose his crown, and perhaps gain nothing, even if he established despotism. But with the President who perhaps depends on a quadriennial election the case is different. It is certainly a formidable power to place in the hands of any one public servant. I would however in no event interpose the opinion of the legislature, so as to controul the movements of these forces, but merely to affix the condition, or emergency, upon which his absolute power over them should commence. As I would repose the whole trust of this department in one officer, so he alone should be responsible for all its transactions. He might associate whom he pleased, of the wise men of America in his councils, but they should be of his own association. An allowance might be made him, to compensate them for their services, for which he would be accountable.

Controversies between independent nations are usually settled by the sword. It is to the misfortune of mankind that no tribunal has ever been established to adjust their interfering claims, and inforce its decrees. It has been the defect of all other confederacies, of whose institutions history has given us any account, that although attempts in some have been made in this respect to preserve the harmony, and lessen the calamities of mankind, yet the courts to whom the controversies have been submitted, the council or representive body of each, have not been organized on such principles as to insure justice in all their decisions. To this circumstance perhaps many of their calamities were to be attributed. The framers of the confederation in some degree also fell into this error, for those only of a territorial kind were to be submitted to a fœderal court. Under that form its inconvenience has been often very sensibly felt, but under the present it would be insupportable. Great care should therefore be used, in the organization of this branch, to remedy this defect. The judiciary in this, as in all free governments, should be distinct from, and independent of the other branches, and equally permanent in its establishment. Performing its appropriate functions, the extent of its authority should be commensurate with theirs. As it forms the branch of a national government, so it should contemplate

national objects only. Whatever cases might arise under the constitution, the laws of the legislature, and the acts of the Executive in conformity thereto, (however trifling or important the interests it affected might be) should have their final decision from this court. All cases affecting ambassadors, other public ministers and consuls—of admiralty and maritime jurisdiction—all controversies between different states—between the United States and a state—a state and the citizens of another state, citizens of the same state claiming lands under different states, should of course be submitted to its decision. In cases affecting ambassadors, other public ministers and consuls, and in which a state shall be a party, the Supreme Court should have original jurisdiction; in the other cases above mentioned appellate jurisdiction as to law only, and from the Supreme Court of the respective states. The laws of the United States becoming under the constitution those of each state, their courts of course take cognizance of them, from whose decisions, the object of the union will be completely answered by an appeal to their court as to law only, and with great accommodation to the interests of the people. In the organization of this branch, the object should be to found it on the state establishments, and not independently of them, for in the latter case new and very extraordinary difficulties present themselves to view, among which the clashing of jurisdictions would perhaps be the least important. The judges should be appointed by the President, who would of course take them from among the meritorious of our citizens in the different quarters of the union.

Having shewn the defects of our present federal system, pointed out those remedies or amendments both as to its powers, and their distribution or organization, that have appeared to me advisable, I am naturally led in conformity to the plan I had laid down in the beginning of these observations, into a more minute comparison or examination, of the constitution now before you, by the standard or test of those principles I have endeavoured to establish. And this I will confess, is the most painful part of the present enquiry. But where there is a contrariety of sentiment, in any degree, there can be no other mode of investigation; and it is I am persuaded the fairer course, for if the principles them-

selves cannot be supported it necessarily results, that all reasoning or deductions from them fall to the ground.

It may be recollected that I have not objected to any of those powers which were necessary to add, to the energy, strength, resource, or respectability of the government, but have sought to divest it of those only which I conceived it could never exercise, were impracticable, and whilst they remained even if not brought forth into action, would lessen it in the confidence of the people, but if ever exerted prove the source of endless strife between the states and the general government, that must terminate in the ruin of either the one or the other, which I have considered, (perhaps improperly) as a great national calamity. Those to which I have particularly alluded are the right of direct taxation and of excise through all the states; and the more I have reflected on this subject the better satisfied I have been, that if the other powers were vested in it, and the government made as thereby it would be, strong, energetic and efficient, that the leaving those with the states would not only be happier for them, but more beneficial for it. For whether we examine it as an abstract proposition, or avail ourselves of those lights which the history of all times hath presented to our view, yet the demonstration, at least to my mind, seems satisfactory and conclusive, that under such a government, able and willing to compel the states to perform their duty, the want of which is the great defect of the present system, and which would thereby be completely remedied, that the same objects might be attained to better advantage through their intravention, than by any other mode or institution that could be adopted for the purpose. As this is perhaps the only objection which I have to the powers contained in the constitution, and is founded on principles I have already fully explained; it will be unnecessary to attempt a further illustration of it here. I shall therefore proceed, admitting the propriety of the general division into three branches, to an examination of the subordinate organization of the government, and first of the legislature.

Its division into two branches an house of representatives and senate has appeared to me to be perfectly right; and the mode prescribed for the election of the members of the former by the people not only practicable, but highly commendable. The right

of originating money bills, and of impeachment, have also been properly assigned to this branch; the term of service and the principle of representation upon which its house will be formed appear likewise inexceptionable. In short this branch of the legislature is organized entirely to my wishes. I must however confess my mind has not as yet acknowledged in these respects, the same possessions in favour of the senate. The great defect as has been already often observed in the present form, is that of its being a diplomatic corps, a government by and for states, and not in any view of it a national one. In changing it, the object should be to correct that defect in all cases whatever, so far as it might be practicable, which can only be done by taking the appointment of all its officers out of the hands of the states, in their legislative characters, and placing it in those of the people, or electors by them appointed for the purpose. This has been done with the members of the house of representatives, but departed from with those of the Senate. This branch will therefore be in every respect the representative of the states, dependent on and responsible to them for their conduct. In forming a right estimate of the consequences resulting from this property in the character of this body, and of the tone it may give to the measures of the government, we must examine its powers in every direction, and pursue its operation upon every subject. And first as to its share in the legislature or its influence upon all legislative acts.

The senate has an absolute negative upon all laws; from this it results that those not for the advantage of the states, or the prevailing faction in the government, to which they respectively belong will by those thus circumstanced be rejected; for it is to be presumed that because ten members from Virginia, eight from Massachusetts or Pennsylvania in the house of representatives, have passed a bill, whilst one from Rhode Island or Delaware only had rejected it, that these will give up their equal suffrage in the senate? Is it not more presumable that their senators will look on at the nominal and unimportant superiority of those states, in the other house, laugh at their supposed triumph, and await coolly its submission to their board, where its fate will be inevitable? Or is it to be supposed, that the right to originate money bills, a thing proper in itself, being the more democratic branch,

in the house of representatives, will controul this disposition, especially when we recollect that they are both only representative branches, equally dependent on the passage of such a bill for their wages or salary, and that the members of the latter holding their offices for a shorter term, have perhaps not been able to introduce such a degree of œconomy and order into their finances. This is a check of great importance in the English constitution, and indeed the preservation of the democracy, but the construction and principles of the two governments are so radically different, that it will be easily perceived by the slightest observer, the same effects are not to be expected from it, at least not to the same extent in this, that are experienced in that. Making due allowance for those considerations that should be taken into view, I am therefore led to believe that the defective principles of the present government, through the means of the senate, in respect to form and representation, have been communicated to this branch of the constitution. Appointed by the states and of course responsible to them for their conduct, the senators will act for those to which they respectively belong; nor can we reasonably expect from their concession any great accommodation. Thus the state spirit, with an equality among the members of the union, will be preserved in this branch of the government, and if there was an absolute necessity for yielding the point of representation, yet none suggests itself, at least to me, for not remedying the defect in the form, which has been found so pernicious in the present one.

By the consent of two thirds of the senators *present*, treaties shall be formed; by that of a majority, ambassadors, other public ministers, and consuls, judges of the supreme court and other public officers not otherwise provided for by law, shall be appointed. The subjecting the decision of important questions to a dependence on the occasional presence or absence of any of the members, more especially as no quorum is established, appears to me improper. If the vote of two thirds of the body is in any instance necessary, for the security of the interests of any part of the union, why should the death or delinquency of a member deprive it of this safeguard, by submitting them to the controul of perhaps less than one fourth? It is further to be ob-

served that whatever influence this branch may have in directing the measures of the executive, from the nature of its appointment, will be exerted to give it a narrow state byas, and that from this source alone, constructed as the two branches are, much injury is to be expected from this extraordinary coalition.

"The senate shall have the sole power to try all impeachments." The president is to act under their controul in the cases above stated, if in any instance a wanton violation by their direction or permission should be made, which though not probable is yet practicable, of the rights or interests of any part of the community, and after solemn debate in the house of representatives, this high officer should be brought by impeachment before this body to expiate his offence, what would be his fate, especially as he still held his office and might wield his powers in his defence? A king of England involved himself in great difficulties by an attempt to establish the validity of a general pardon, but had the constitution submitted the trial of state offenders to himself, there would have been no occasion for the contest. Admitting however the members of this body to be incapable of moral turpitude, may we not suppose, as might be the case in that of an individual state, in the operation of this government, that offences might be committed against one quarter of the community, and which before a dispassionate court would receive severe reprehension, would be highly beneficial to the others? And in such a case could we expect from the representatives of these states a candid or impartial decision against the interests of their constituents?

The placing the executive power in the hands of one person, appears to be perfectly right. If this branch had been put into commission, the state spirit would have been communicated to it, and have tainted all its measures; in addition to this there would have been less responsibility. But the mode of election, does not in all respects appear, to merit such commendation. A departure from the strict representative line, by adding the equal vote of the senate to the number each state hath in the house of representatives, is made in the first instance; but it is still more exceptionable in other respects. If an election shall not be made, and in all probability this will often be the case, indeed the presumption

is the contrary will seldom happen, a very extraordinary subsidiary mode is resorted to. Those having the five highest votes are to be ballotted for by the house of representatives, the vote to be taken by states, and one member from each giving the vote of the state. All cases that the constitution will admit of, should be considered as likely to happen some time or other. No person then I am persuaded who will make the calculation, can behold the facility by which the chair of the United States may be approached and atchieved, even contrary to the wishes of the people, without equal anxiety and surprize.* Let it be admitted that the temper of the times and the ardent spirit of liberty which now prevails, will guard it for the present from such easy access; but that person has profitted but little, from the faithful admonition which all history has given him, who shall conclude from thence, that this will always be the case. His right to remain in office after impeachment, with the influence though diminished, still attending it, appears to be highly improper. That of adjournment in case of impeachment between the two branches, to such time as he shall think fit, is certainly too unqualified and extensive. The impropriety of the union of this branch with the senate has already been sufficiently dilated on; it will therefore be unnecessary to repeat the same arguments here. Contemplating however the consequences of this union, the expiration of his service, should in my opinion be accompanied with a temporary disqualification. The senators, would to save the commonwealth from injury, be able to give instruction to a new president, and it would perhaps be better, to change occasionally the acting party, of a combination that might otherwise be dangerous.

From the first clause respecting the judiciary it is obvious, that the Congress, although there shall be one Supreme Court only, may establish as many subordinate to it, as they shall think fit. The presumption is, they will establish so many as shall be necessary for the discharge of the functions of the department, to the advantage of the government, and benefit of the people. The extent therefore of the duties which become the exclusive object of

* It is obvious that seven men only may elect the President, the constitution has not been copied nor any part of it, because it is presumed to be in the memory of every person.

a fœderal court, may give some insight into that establishment they might probably adopt; and when we observe that the cognizance of all cases arising under the constitution and the laws, either of a civil or criminal nature, in law or equity, with those other objects which it specifies, even between the citizens of the same state, are taken from those of each state and absolutely appropriated to the courts of the United States, we are led into a view of the very important interests it comprehends, and of the extensive scale upon which it operates. It will therefore be the duty of Congress to organize this branch, by the establishment of such subordinate courts, throughout the whole confederacy, in such manner as shall be found necessary to support the authority of the government, and carry justice home, so far as it may be practicable, to the doors of all its inhabitants. What mode may be best calculated to accomplish this end, belongs to that body to determine. Bound by no rule they may it is true (as in the commencement they probably would) avail themselves of those of each state; but this would be a measure of expedience only and not of right, and may hereafter be changed as the fortunes of the government, and considerations of expedience may dictate. How far it may be proper to authorise the subjects of foreign powers to carry the citizens of any state into a fœderal court, and afterwards by appeal into the Supreme Court, is of questionable propriety. The principal argument in its favour appears to be that of securing the United States from the danger of controversies with such powers, under the partial decisions of those of the individual states. But if they knew such cases, were by a fundamental of our government submitted to them, it were reasonable to suppose, that all just cause of complaint, would be removed. The submission to a fœderal court of contests upon ordinary subjects, between citizens of the same state, or even of different states, or indeed upon any subject, that did not arise under territorial controversies between states, and which originally belonged to that court, appears to be highly improper and altogether unnecessary. The appeal as to fact is still more extraordinary and exceptionable. The verdict which has been found must of course be set aside, and the court subjected to the necessity of either trying the cause upon the evidence already given, with liberty to

construe it at pleasure ; of hearing it over again admitting other evidence, being judges of the fact themselves ; or submitting it to another jury to find a second verdict, either of which modes appears to be highly exceptionable ; for if the court become judges of fact under the old or a new trial, the right of trial by jury is dispensed with ; and if a second jury shall be summoned, independent of the difficulty and hardship, attending the submission of controversies contracted at the extremities of the union, by people in some degree variant in their manners, customs, and prejudices, to a jury formed of those of any one town, the parties are necessarily exposed to the loss of time, (of importance especially to the lower classes of society) and the enormous expence inseparable from a tryal carried on at a great distance from home. What necessity there can be, so effectually to lay aside the state courts (which though perhaps improperly organized at present are yet capable of improvement) and subject the good people of America to such new and unheard of difficulties, I must confess I am not able to comprehend, nor can I readily foresee the very important consequences into which it may lead.

Having now taken a view as concisely as I have been able, of the defects of the present system, suggested the remedy with the principles upon which it is founded, examined the constitution by that standard, and shewn wherein I have approved or disapproved of it, perhaps it may be expected (as a deduction from the foregoing principles) that I should make some calculation, of the probable course and ultimate fate of the government, should it be adopted in its present form, since it might have some influence upon your opinion in the present instance. This must however be altogether conjectural, for in the operation of government, as in that of all other powers after consequence have been clearly demonstrated, as resulting from certain causes, oftentimes some incident, not contemplated, nor taken into the combination, or extra circumstances arises, that gives it a different direction. To form any estimate in this repect some peculiarities present themselves to view very deserving of attention. The mixture between the general and state governments, being partly a consolidated and partly a confederated one, suggests a balance between sovereignties that

is new and interesting. So far as it proceeds from the people and its powers embrace the care of their interests, it partakes of the qualities of the former; and so far as the state governments remain of the latter. In weighing the momentum of their relative strength or force it is no less difficult to determine which will preponderate. Founded alike by the people, by the people also may either be changed at pleasure. If the precise boundary had been drawn between them, the proper checks established, and the general government well poised, it might for a long time, and I should hope forever, be stationary; defective in these respects it will probably soon experience a change. Pursuing a natural course under those shocks it must expect, without any foreign impression to give it the fairest hopes, let us enquire what the interests of the people will dictate, for let that be its direction. Independent state sovereignties, or partial confederacies, have been reprobated in its commencement. Its foundation has been laid on the ruin of all schemes that had that tendency, and it is presumable it would in no event embrace either, at least until it had experienced a great vicissitude of fortunes. If then it escaped the first paroxisms, the severe struggles, and violent efforts against it, exposed it to, its establishment might be considered as complete. And suppressing the spirit of opposition, its constitutional basis will be found broad and extensive. It is not the aid of the Delphic oracle, the blind zeal of enthusiasm, that will be called in to its support. It has the protection of the true religion, of divine authority itself, to shield it from danger. The exercise of powers in common that will be allowed of in its commencement, must yield on the part of the states, to its acquiring strength. And wielding those the constitution has given it without availing itself of such as were constructive, the state governments, under this progress, would soon become a burthen to the people. The confederated principle, or the spirit of state sovereignty, would however not be inactive, but operate so as to bring on the crisis; and the constitution itself presents a fruitful source of controversy, for the spirit of accommodation, or the mutual fear of danger, must be great, where the line between them is not exactly drawn, if they do not interfere. If this government had been organized over one state, with a moderate

extent of territory, its natural progress, through the Senate, would be to aristocracy. But as it is I am inclined to believe, that although in its operation it may bear that tone, yet when it becomes convulsed and experiences a change, it will hold a different direction. Even the construction of that branch in its operation will contribute to hurry it into monarchy, and our earnest hopes and prayers should be, every circumstance considered, that it be a limited one. For these reasons and not that I fear any danger to the liberties of our country, from the effective force of the government, exerted immediately against the good people of America, could I wish those checks and guards adopted, omitted at present from neglect and an over confidence of our security, but which it is possible if the present opportunity is lost, we may contend for hereafter in vain. Political institutions, we are taught by melancholy experience, have their commencement, maturity and decline; and why should we not in early life, take these precautions that are calculated to prolong our days, and guard against the diseases of age? Or shall we rather follow the example of the strong, active, and confident young man, who in the pride of health, regardless of the admonitions of his friends, pursues the gratification of unbridled appetites, and falls a victim to his own indiscretion, even in the morn of life, and before his race had been fairly begun.

I have to apologize for the trouble I have given you in the perusal of these observations. I owe it to myself however to observe that the bounds within which I have been under the necessity of confining this letter has prevented my going into that detail, often necessary, especially on so intricate a subject for the sake of illustration; and the want of leisure has I fear, prevented even a tolerable degree of correctness. But if I have been able to explain myself to your satisfaction I shall be contented. Upon the whole it results that although I am for a change, and a radical one, of the confederation, yet I have some strong and invincible objections to that proposed to be substituted in its stead. Those of less weight might be yielded for the sake of accommodation; but until an experiment shall prove the contrary, I shall always believe that the exercise of direct taxation and excise, by one body, over the very extensive territory contained within the

bounds of the United States, will terminate either in anarchy and a dissolution of the government, or a subversion of liberty. The judiciary I consider as illy organized and its powers as too extensive; the whole government in a great measure without responsibility, and the rights of men too loosely guarded. And when I behold the Senate, a corps more deplomatic in its principle, permanent in its station, and systematic in its operations, than even the late Congress itself, wielding in the one hand the strong powers of the Executive, and with the other controuling and modifying at pleasure, the movements of the legislature, I must confess that not only my hopes of the beneficial effects of the government, are greatly diminished, but that my apprehensions of some fatal catastrophe are highly awakened. We have struggled long to bring about this revolution, we have fought and bled freely to accomplish it, and in other respects braved difficulties almost without a parallel. Why then this precipitation, why this hurry upon a subject so momentous, and equally interesting to us all? Is it to be supposed that unless we immediately adopt this plan, in its fullest extent, we shall forever lose the opportunity of forming for ourselves a good government? That some wild phrensy or delirium of the brain will seize upon us, and losing all recollection of things past, and abandoning the social ties that bind mankind together, we shall fall into some strange and irretrievable disorder? Or is it not more natural to suppose that perfection in any science, if attainable at all, is to be approached by slow and gradual advances, and that the plan of government now presented for your inspection, though a powerful effort of the human mind, is yet to be improved by a second essay?

The subject now submitted to you, is no less interesting than it is important. Providence hath long seen nine-tenths of the habitable globe immersed, and groaning under the dreadful oppressions of slavery. To the people of America, to you it belongs to correct the opposite extreme. To form a government that shall shield you from danger from abroad, and promote your general and local interests, protect in safety the life, liberty, and property, of the peaceful, the virtuous and the weak, against the encroachments of the disorderly and licentious. Whether they are now endangered, whether the plan now before you, presented

under the most faithful and illustrious auspices; under the auspices of men of whose abilities and integrity you have long had the most satisfactory proofs, and who to the most important services, by abandoning the enjoyments of a peaceful and happy retirement, have added this further testimony, of their never failing attachment to the interests of their country, will accomplish this end, or is capable of still further improvement, belongs to you to determine. To differ in any respect from these men, is no pleasant thing to me; but being called upon an awful stage upon which I must now bear a part, I have thought it my duty to explain to you the principles on which my opinions were founded, under this further assurance, that if after a candid review, they shall appear indefensible, I will most cheerfully submit to be governed by your wishes, and obey other instructions.

APPENDIX II.

OBSERVATIONS

UPON THE PROPOSED PLAN OF

FEDERAL GOVERNMENT.

WITH AN ATTEMPT TO ANSWER SOME OF THE PRINCIPAL OBJECTIONS THAT HAVE BEEN MADE TO IT.

BY A NATIVE OF VIRGINIA.

PETERSBURG:
PRINTED BY HUNTER AND PRENTIS.
M,DCC,LXXXVIII.

APPENDIX II.

OBSERVATIONS ON THE FEDERAL GOVERNMENT.*

IT was discovered, soon after the peace, that the Confederation, in its present form, was wholly inadequate to the end of its creation; that of making America one State, for great national purposes. As soon as peace took place, confusion in every department of Congress, ruin of public and private credit, decay

* "Sm. 4to. pp. 64, (2). No mention is made of this pamphlet in Gilman's *Life of Monroe*, nor in any bibliography. There was a copy in the Jefferson Library, but it was lost in the fire of 1839, and the above is the only copy I have been able to find."—CURTIS, CONSTITUTIONAL HISTORY, page 739. This pamphlet, attributed to Monroe, before the discovery of Appendix I, is among the Madison Papers in the Department of State. Mr. A. P. C. Griffin, when compiling the CATALOGUE OF THE WASHINGTON COLLECTION IN THE BOSTON ATHENÆUM, had called the Editor's attention to the fact that Monroe sent a copy of his pamphlet [Appendix I] to Washington on February 15, 1789. General Washington in acknowledging it wrote: "Dear Sir,—I received by the last mail your letter dated the 15th of this month, accompanied with your printed observations on the new Constitution, and am much obliged by this token of your polite attention. However I may differ with you in sentiment on some of the points, which are advocated in your Treatise; I am pleased in discovering so much candour and liberality as seem to predominate in your style and manner of investigation. That a spirit of unanimity, accomodation and rectitude may prevail so extensively as to facilitate the means for removing any well grounded apprehensions of the possible future ill consequences which may result from the general government is the sincere wish of, D. Sir, your most obedt & very humble Servt. Geo Washington.—Mount Vernon, February 23, 1789." The subjects of Monroe's views and remarks in the Virginia Convention are summarized under the following: Fate of ancient Nations. Review of ancient Leagues; Germany, Swiss, Netherlands. Western Posts. Confederation; comparative power in the Federal Constitution. Division of Power. Presidential responsibility; its connection with the Senate. Government in the hands of the States and therefore dangerous. Deplorable state of the Country

of trade, and loss of importance abroad, were the immediate consequences of the radical defects in the Confederation. During the war the fear of a powerful enemy answered all the purposes of the most energetic government. But as soon as that fear was removed, the thirteen United States began to draw different ways. Some refused to ratify the treaty of peace; others neglected to pay up their respective quotas to the public treasury; and others absolutely rejected the most salutary propositions of Congress; propositions to which the greater number of States readily assented. In vain have Congress called upon the different States to pay up their quotas in order to support the falling credit of America: In vain have they pointed out to them the necessity of establishing their public faith as a nation, by complying with their treaties: In vain have they recommended to them to forego their own immediate interests, and consider the interests of the Union. Congress might advise, or recommend measures; might approve the conduct of some States, and condemn that of others; might preach up public faith, honour, and justice: But was this sufficient to preserve a union of thirteen States, or support a national government? It had no authority, its powers expired at the peace, became a dead letter, for the fear of common danger was gone. Peace, which to other nations produces, and which under other circumstances would have produced to us, the greatest blessings, was pregnant with the greatest evil; disunion, the certain parent of internal quarrels, disorder, and blood-shed. In this situation of America, some of the best and wisest of her citizens, lamenting that the term of her glory was so short, and dreading the fatal consequences which would necessarily follow from disunion, proposed that a Convention of the States should be called for the purposes of amending the Confederation. The wisdom of the measure was instantly seen: It was approved by Congress, recommended to, and adopted by the States.

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at the time of the Mississippi negotiation. Interest of the Western States to oppose the Constitution. Project of the Spanish treaty. President ought to be responsible to the States; his election; may continue for life. Vice President, unnecessary office. Conditional ratification not dangerous to the Union. Federal Convention met under a loose commission. [*See* Elliot's *Debates on the Federal Constitution*, vol. 3.]

IT is on all hands agreed, that an abler or more upright Assembly never met in America, than the late Convention held at Philadelphia. The original design of their meeting was to amend the present Articles of Confederation: But upon consulting together; upon accurately investigating the Confederation, and informing each other of the real situation of their respective States, they saw so many radical defects in ~~the~~ one, and so many alarming appearances in the other, as induced them readily and unanimously to ~~modify~~ new model the Federal Constitution: And after four months spent in painful enquiries, and diligent labour, produced the frame of government now offered to the consideration of the citizens of America. A form of government, which the President of the Convention, with the modesty peculiar to him, acknowledges to be in some respects defective; but which he likewise tells us, "was the result of a spirit of Amity, and of that mutual deference and concession, which the peculiarity of our political situation rendered indispensable."

WHEN we take a view of the respectable names who met upon this occasion, and composed this plan of government, we ought to approach it with deference and respect. Though not in such a manner as to deprive us of the power of discovering its faults; yet with such liberality as will lead us to consider it as the result of the deliberations of good and able men, actuated by just motives, and governed by pure principles. Men not swayed by selfish prospects, but urged to action by general philanthropy, and the desire of handing to posterity the best form of Federal Government, that America is capable of receiving, or perhaps that was ever offered to the consideration of mankind.

IF we read the proposed plan under these ideas, and think we discover imperfections, and faults; ought we not rather to distrust our own perceptions, than the understandings of its makers? Because it is much more probable, that a single reader, even of great capacity, should be mistaken, than that so respectable a body as the Convention, with minds equally enlightened, and more unbiased, should, after the freest and fullest investigation of this important subject, be wrong.

I confess I am not one of those who would adopt without con-

sideration, or blindly pursue a plan produced by any body of men, however eminent their characters for wisdom and virtue. "Not to pin my faith upon the sleeve of any man," was one of my earliest lessons. However, I am persuaded that the work before us, requires no blind followers: but standing upon the basis of its intrinsic merit, possesses strength sufficient to withstand the shocks of its most powerful enemies. Often have I read this work; and sometimes discovered, as I thought important defects; yet upon doubting my own judgment, and reading it again, have generally found the fault in myself, not in the Constitution. Yet I will not pretend to say that it is perfect. Did perfection ever come from the hands of man? If it were perfect, it would be illy suited to our imperfect capacities. Government in itself is not a positive good; but something introduced by societies to prevent positive evil. The best frame of government is that which is most likely to prevent the greatest sum of evil. Such I apprehend is the government now under consideration. Had the design of the Convention been to frame a Constitution for any individual State, they might perhaps have produced one, in the abstract, still nearer perfection. But far different was the purpose of their meeting! and I feel myself happy in concurring with that august body in thinking, that it is the best government which could be obtained for the thirteen States of America. Under this impression I shall attempt to explain those parts of it which are, or have been supposed to be difficult; and to answer some of the principal objections which have been made to it.

BEFORE we enter into a discussion of the different articles which compose the Constitution, it may not be improper to take into consideration the question respecting a Bill of Rights; which many, from habit and prejudices, rather than from reason, and truth, have thought necessary; and upon the want of it have founded one of their principal objections.

FEW people knew the origin of the term; still fewer have considered, without prejudice, the necessity of the thing. What is a Bill of Rights? A declaration insisted on by a free people, and recognized by their rulers, that certain principles shall be the invariable rules of their administration; because the preservation of these principles are necessary for the preservation of liberty. If

this ~~distinction~~ definition be just; can there be a difference, whether these principles are established in a separate declaration, or are interwoven and made a part of the Constitution itself? Is an infringement of a Bill of Rights by the Governing powers, of more serious consequence, than an infringement of the frame of government? The question carries the answer along with it. That there is no distinction between them is a truth, an attempt to prove which would be an offence against common sense.

Of all the European governments a Bill of Rights is known, I believe, to that of England alone. The cause of this is obvious. The liberty of that country has been procured and established by gradual encroachments upon the regal powers seized by, if not yielded to, the first Prince of the Norman family. The first declaration of this sort found in the history of that government, is the Charter of Hen. the 1st, obtained in consequence of that Monarch's feeble title to the Throne. The frequent infractions of that Charter by Henry himself, as well as by subsequent Monarchs, produced the famous Magna Charta of John, which is generally considered as the foundation of English freedom. But in those ages of darkness, when scarcely a rule of descent was fixed, much less principles in politics established, Charters, or Declarations of Rights, were soon lost sight of, whenever interest induced, and circumstances offered opportunities to the English Princes, to infringe them.

These violations gave rise to the Charter of Hen. 3d, which was of much more importance than any of the preceding; and the discontents and confusions which led to it, in the end gave birth to the House of Commons. From this period some ideas of liberty began to prevail in the nation, but which for a long course of years was obscured by turbulant Barons, long and destructive civil wars, and the arbitrary government of an able line of Princes. The art of printing, the reformation, and the restoration of letters, at length enlightened the minds of men: Just ideas of liberty now prevailed, and the commons saw, that if the powers exercised by the Tudors were to continue in their new Sovereigns, all hope of liberty was at an end. Their restless spirit frequently shewed itself during the reign of Elizabeth; but that prudent Princess

had the address to allay their fears, and the vigor to repress their spirit. A new and foreign race of Princes now ascend the Throne. The opportunity was not to be lost: Political positions were laid down in, and established by the House of Commons, which were considered by many as extraordinary, as they were true.

JAMES, without the talents, affected to reign with as high an hand as the Tudors. Charles unfortunately for himself, had been educated in the prejudices of his father. His ill advised and arbitrary measures, involved him in difficulties which produced the Petition of Right in 1628. In this was set forth the unalienable rights of English-men. New infractions produced new quarrels; which terminated in a total change of government. At the restoration all was joy and festivity. The tide of royalty ran too high, to think of Bills of Rights, or privileges of English-men. The conduct of James the 2d. the last King of that ill fated family, involved the nation in fresh discontents: The Prince of Orange is called to its assistance: The King quits the Kingdom: The Throne is declared vacant; and William ascended it upon terms stipulated in a Bill of Rights. It may be asked, why did the English consider a Bill of Rights necessary for the security of their liberty? The answer is, because they had no written Constitution, or form of government. For in truth the English Constitution is no more than an assemblage of certain powers in certain persons, sanctified by usage and defined by the authority of the Sovereignty; not by the people in any compact entered into between them and their rulers.

If at the revolution the English had fully marked out the government under which they chose in future to live without contenting themselves with establishing certain principles, in a Bill of Rights, can there be a doubt, but that such frame of government would have supplied the place of, and rendered unnecessary, a Bill of Rights?

FORMER Princes had pretended to a divine right of governing: William acknowledged his to flow from the people; and previously to his ascending the Throne entered into a ~~contract~~ compact with them, which recognized that just and salutary principle. Had the English

at this time limited the regal power in definite terms, instead of satisfying themselves with a Bill of Rights, there would have been an end of prerogative ; but they from habit were contented with a Bill of Rights, leaving the prerogative still inaccurately defined, to claim by implification, the exercise of all the powers not denied it by that declaration.

WHEN the United Netherlands threw off their dependence on the Crown of Spain and passed their act of Union, they thought not of any Bill of Rights ; because they well knew that the States General could have no right nor pretext to pass the bounds prescribed by that celebrated act : So in the instance before us, Congress have no right, and can have no pretext, to pass the bounds prescribed them by this Federal Constitution ; and the powers conceded to the Federal Government by the respective States, under this government, are as accurately defined, as they possibly could have been in a Declaration of Rights.

WHEN Independence was declared by the Americans, they had no government to controul them : Were free to chuse the form most agreeable to themselves. Six of these States have no Bill of Rights ; wisely judging, that such declarations tend to abridge, rather than to preserve their liberties. They considered their Constitutions as the evidence of the social compact between the governors and the governed, and the only proof of the rights yielded to the former. In all disputes respecting the exercise of power, the Constitution or frame of government decides. If the right is given up by the Constitution, the governors exercise it ; if not, the people retain it. Each of the remaining seven States has a Declaration of Rights, adopted rather from habit arising from the use in the English government, than from its being necessary to the preservation of their liberties.

PLAN OF THE FEDERAL CONSTITUTION.

WE, the People of the United States, in order to form a more perfect Union, establish Justice, insure domestic Tranquillity, provide for the Common Defence, promote the General Welfare, and secure the Blessings of Liberty to Ourselves and our Posterity, do Ordain and Establish this CONSTITUTION *for the* UNITED STATES OF AMERICA.

THE introduction, like a preamble to a law, is the Key of the Constitution. Whenever federal power is exercised, contrary to the spirit breathed by this introduction, it will be unconstitutionally exercised, and ought to be resisted by the people.

ARTICLE I.

Section 1. *All legislative powers herein granted, shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.*

IT is necessary to observe that, Congress consists only of a Senate, and House of Representatives. The President makes no part of it; for his negative only amounts to a reconsideration of the public measures; as notwithstanding his disapprobation, a bill becomes a law, if two-thirds of each House agree to it.

Sect. 2. *The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.*

IT will be asked by some,—Why should the Representatives to Congress be elected for two years, when in Virginia and the other States, the State Delegates are annually chosen? In answer to this question a variety of reasons occur; such as that they will have a great distance to go: That the purposes of their Legislation being purely federal, it will take them some time to become acquainted with the situation and interests of the respective States, as well as the relative situation and interest of the whole Union. That it would be difficult to get men of abilities to serve in an office, the re-election to which would be so frequent. If the election had been once in three years, it would perhaps have

been an improvement. The unstable councils, the feeble laws, the relaxation of government which afflict this, and almost every State in the Union, may justly be attributed to the frequent changes which take place among the rulers in all the American governments.

Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative: And until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three; Massachusetts eight; Rhode-Island and Providence Plantations, one; Connecticut, five; New-York, six; New Jersey, four; Pennsylvania, eight; Delaware, one; Maryland, six; Virginia, ten; North-Carolina, five; South-Carolina, five; and Georgia, three.

EVERY free person counts one, every five slaves count three. By this regulation our consequence in the Union is increased, by an increase of numbers in the Congress. But some objectors argue that this arrangement is unjust; and that it bears hard upon the Southern States, who have been accustomed to consider their slaves merely as property; as a subject for, not as agents to taxation; and therefore by adding three fifths of our slaves to the free persons, our numbers are increased; and consequently by how much is that increase, by so much is the increase of our federal burthen. It is true, that slaves are property,—but are they not persons too? Does not their labour produce wealth? And is it not by the produce of labour, that all taxes must be paid? The Convention justly considered them in the light of persons, rather than property: But at the same time, conceiving their natural forces inferior to those of the whites; knowing that they require freemen to overlook them, and that they enfeeble the

State which possesses them, they equitably considered five slaves only of equal consequence with three free persons. What rule of federal taxation so equal, and at the same time so little unfavourable to the Southern States, could the Convention have established, as that of numbers so arranged ? Suppose the value of the lands in the respective States had been adopted as the measure : Let us see what then would have been the consequence. The northern States are comparatively small to the Southern, and are very populous ; whilst to the southward, the inhabitants are scattered over a great extent of territory. Any given number of men in the latter States possess much greater quantities of land, than the like number in the former. It is true the lands to the northward sell for a greater price than those to the southward, but the difference in price is by no means adequate to the difference in quantity ; consequently an equal number of men to the southward would have to pay a much greater federal tax than the like number to the northward.

BY the 8th. Article of Confederation, the value of lands is made the measure of the federal quotas. Virginia in consequence is rated something above Massachusetts, whose number of white inhabitants is nearly double.

AFTER all, this point is perhaps of no great consequence. The Congress probably will rarely, if ever, meddle with direct taxation, as the impost duties will in all liklihood answer all the purposes of government, or at any rate the post-office, which is daily increasing, and a tax upon instruments of writing, will supply any deficiency.

INDIANS are mentioned in this clause because there are nations of Indians within the limits of several of the States.

When vacancies happen in the Representation from any State, the Executive authority thereof shall issue writs of election to fill such vacancies.

THE Convention attentive to the preservation of the consequence of each State, have entrusted to the Executives thereof, the power of issuing writs of elections when vacancies happen. An additional security to the independance of the individual States.

The House of Representatives shall chuse their Speaker and other officers; and shall have the sole power of impeachment.

THE Representatives in Congress possess the sole power of impeachment: But here it may be observed, that they cannot impeach one of their own body; but have the power of expulsion, when two-thirds of their body shall agree.

Sect. 3. *The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years; and each Senator shall have one vote.*

THE inequality of the representation of the Senate, has been made a great ground of objection.

WE should never forget that this is a government proposed for thirteen independent States, unequal in population, and extent of territory, and differing in a variety of other circumstances. It will not be denied that the small, have an equal right to preserve their independence with the large States; and this was their only means of preserving it. The justice of this is acknowledged by most of the objectors and amenders of the plan.

WE should here also recollect, that under the Confederation which at present exists, the small States have a vote in all respects equal to the large, even to Virginia; and it certainly was a great point gained by the large ~~ones~~, to get their consequence increased in the House of Representatives in proportion to their numbers. In the United Provinces each of the seven States has but one vote in their Congress, and in that Confederation the disproportion between the States is much greater, than in ours; for the Province of Holland pays rather more than one half of the whole federal quota. Yet so great are the evils which would arise from a disunion, that this wealthy Province readily submits to so unequal a representation.

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be, into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class, at the expiration of the fourth year; and of the third class, at the expiration of the sixth year; so that one third may be chosen every second year: And if vacancies happen by resignation, or otherwise, during the recess of

the Legislature of any State, the Executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

NOTWITHSTANDING the Senators are to be chosen by the Legislatures of the respective States, who surely are competent judges of those who are most capable of filling this important office: Notwithstanding one third of them are re-chosen every two years: Yet the enemies to the Constitution affect to call this an aristocratic body: And endeavour to excite visionary fears in the minds of men, that they will form a distinct order in the State, and become formidable to the liberty of America. I am not gifted with the spirit of prophecy, and therefore cannot say what will happen; but this I will boldly assert, that if power cannot be trusted in the hands of men so appointed, it can be trusted no where. The different States will be well acquainted with the characters of those whom they elect to the Senate; their time of duration when elected is too short to enable them to form dangerous intrigues, or bring about important revolutions. It is a well established principal in rhetorick, that it is not fair to argue against a thing, from the abuse of it. Would you say there should be no Physicians because there are unskilful administers of medecine: No Lawyers because some are dishonest: No Courts because Judges are sometimes ignorant; nor government because power may be abused? In short, it is impossible to guard entirely against the abuse of power. Annual elections will not do it. The Delegates of Virginia are annually elected, yet it is a fact, that there has not been an Assembly since the government was framed, wherein the Bill of Rights and the Constitution have not been infringed. The instances have been of no great importance and therefore notwithstanding the danger of the principal, they have been overlooked.

The Vice-President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

The Senate shall choose their other officers, and also a President pro tempore, *in the absence of the Vice-President, or when he shall exercise the Office of President of the United States.*

THE Vice-President has been introduced from the State Government of New York. This useful, though surely inoffensive officer, has been made by some objectors the bugbear of the Constitution. It is a strong proof of want of argument in the enemies to it, when they hold up this officer as dangerous. He is elected by the same persons as the President, and in the same manner. He presides in the Senate, but has no vote except when they are divided. This is the only power incident to his office whilst he continues Vice-President; and he is obviously introduced into the government to prevent the ill-consequences which might otherwise happen from the death or removal of the President. This is the purpose for which a similar officer has been introduced into the Constitution of New-York.

The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no person shall be convicted without the concurrence of two-thirds of the members present.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit, under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

I CONCEIVE that the Senators are not impeachable, and therefore Governor Randolph's objection falls to the ground. I am surprised that a man of that gentleman's abilities should have fallen into this mistake. The Senators having a power over their own members, have the right of expulsion. Why then should they be impeachable? For upon impeachments, the punishment is only removal from, and incapacity to hold offices. Expulsion amounts to the same thing. Besides, the Senators are elected by the people, though mediately, as well as the House of Representatives, and therefore have not the same degree of responsibility annexed to their characters, as the officers of the government;

and for this obvious reason,—the former are appointed by the people themselves to stand in their places, and they are the best judges of those who are most fit to serve them: but the latter are appointed by the servants of the people. It is a generally received maxim among writers on government, that the Judiciary and Legislative departments should be kept distinct. The position is true to a certain extent; but this like most other general rules, is liable to exceptions. In the English government, which is certainly the freest in Europe, the House of Lords not only try impeachments, but is the highest civil court in the kingdom. In that Constitution the House of Commons are the impeachers, the House of Lords the triers: But no members either of the House of Commons or House of Lords, was ever impeached as such: But whenever members of either House have been impeached, it was as great officers of State. Under the federal government this is impossible, because the members of neither House can hold any office of State.

If this reasoning be not conclusive, the fourth section of the second article puts it out of doubt, viz. "The President, Vice-President, and all civil officers of the United States, shall be removed from office on impeachment, &c." The Senators are representatives of the people; and by no construction can be considered as civil officers of the State. If this be the case, in whose hands can this power be lodged with greater propriety, or with greater safety, than in those of the Senate? Or how can a better court be appointed? To impeach either the members of Senate or House of Representatives, would be to impeach the representatives of the people, that is the people, themselves which is an absurdity.

Sect. 4. *The times, places and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the Places of chusing Senators.*

The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

Sect. 5. *Each House shall be the judge of the elections, returns, and qualifications, of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the Attendance of absent members, in such Manner, and under such Penalties as each House may provide.*

Each House may determine the rules of its proceedings, punish its members for disorderly behaviour, and with the concurrence of two-thirds, expel a member.

Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either House on any question, shall, at the desire of one-fifth of those present, be entered on the journal.

Neither House, during the cession of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

EXPERIENCE and a change of circumstances may render it necessary that the Congress should have the power of regulating the elections: But as the Senate is elected by the State Legislatures, the place of such election must be the place where they meet. Besides which, this power was necessary lest some of the States from obstinacy, or selfish views, should alter the time and place of holding the elections in such a manner, as might impede the operation of the federal government.

Sect. 6. *The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.*

No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no Person

holding any Office under the United States, shall be a member of either House during his continuance in office.

SAY the objectors,—Why are not the salaries of the members of Congress ascertained by the Constitution? I will answer them by another question,—Why are not the salaries of every officer of the United States ascertained by it? Or rather, why should the Convention have descended into such minutia? Can it be supposed, for a moment, that in the present situation of America, when there are still left many men of talents and virtue, from amongst whom the Congress will doubtless be chosen, that they will pass a law to give themselves immoderate salaries? But even should they, what would be the mighty evil to this extensive continent from eighty or ninety persons having salaries larger than perhaps their services might merit?

IT is proper that Congress should have the regulation of this matter for another reason. It is a fact well known in the commercial world, that, from one certain cause, the quantity of specie is insensibly increasing. This of consequence lessens its value: Therefore a salary which now would be sufficient, forty years hence, would be wholly inadequate.

IN the latter part of this section there is an admirable check upon the members of both Houses; as nothing can tend in a greater degree, to preserve their independence of conduct, and prevent intriguing, than that no member shall be eligible to any office which has been created, or whose emoluments have been increased, since the time of his election, and during the time for which he has been elected.

Sect. 7. *All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.*

IN this the Constitution is an improvement upon that of England: There all money bills must not only originate but must be perfected in the House of Commons: Here though the Senate cannot originate such bills, yet they have the power of amending them, and by that means have an opportunity of communicating their ideas to the House of Representatives upon the important subject of taxation.

Every bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it with his objections, to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a Law.

THIS power in the President is derived from the State government of Massachusetts and New-York, though in the latter the Chancellor and Chief Judges are added to the Governor. This power goes only to a reconsideration of the public measures; and the President's disapprobation, or negative, is nugatory, when two-thirds of each House concur in any measure after it has undergone his inspection. The Convention wisely judged that the President would in all probability be a man of great experience, and abilities, and as far as his powers extend, ought to be considered as representing the Union; and consequently would be well acquainted with the interests of the whole. Great utility is likely therefore to arise to Congress from his knowledge, and his reasoning upon their acts of Legislation. Farther, the experience of all ages proves that all popular assemblies are frequently governed by prejudices, passions, and partial views of the subject; nay sometimes by indecent heats and animosities. The ten days therefore given to the President for his opinion of their measures, is wisely interposed to prevent the mischiefs which might ensue from those common faults of such assemblies.

Every order, resolution, or vote to which the concurrence of the

Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

THE reasoning upon the last clause applies also to this.

Sect. 8. *The Congress shall have power*

To lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare of, the United States; but all duties, imposts, and excises, shall be uniform throughout the United States;

IT is here to be observed, that all taxes, imposts, &c., are to be applied only for the common defence and general welfare of the United States. By no possibility will the words admit of any other construction. Yet several popular * declaimers have attempted to sound the alarm by their illiberal and ill-founded suggestions of peculation, bribery, and corruption, and of the probability of the public Treasury being converted to the use of the President and Congress. But how will this be possible? They will have all fixed salaries, and no perquisites. The public accounts of receipts and expenditures will be regularly kept and regularly published, for the public inspection: Besides which, the public offices will always be open for the search and inquiries of every individual. I doubt if human wisdom could devise any better mode of securing a just application of the public money.

AS scarcely any article of the proposed plan has escaped censure, there are objections made to the grant of the imposts to Congress. But when we consider that the purposes for which the imposts are to be applied are merely national, and falls directly within the design of the Union, that of making all America one State for great political purposes, the objection falls; for in this view America composes but one great republic, all the ~~subjects~~ citizens of which stand precisely upon the same ground,

* See in particular the address and reasons, &c. of the Pennsylvania Minority.

and pay only in proportion to their consumption of foreign articles. To this we may add, that those States which export the chief of the produce of their labour, and in consequence of that circumstance, import more than those which manufacture, receive a compensation for the increased import, by the exported produce being free from duties. And besides, we may fairly conclude, that the consumption of foreign articles throughout America, is nearly in proportion to the enumeration, which is the measure of the respective quotas.

To borrow money on the credit of the United States;

THIS power is lodged with the present Congress.

To regulate commerce with foreign nations, and among the several States, and with the Indian tribes;

THE power of regulating commerce gives great alarm to the enemies of the Constitution. In this, as in most other instances, they forget that this is a government for thirteen States; and think only of the immediate interests of Virginia; as if she had a right to dictate to the other twelve, and as if her interests alone were to be consulted. Be not deceived my countrymen. However important we may be in the scale of Union, there are other States which are equally so. The consequence of this power, say they, will be, that the eastern and northern States will combine together, and not only oblige the southern to export their produce in their bottoms, by prohibiting foreign bottoms; but will also lay such duties upon foreign manufactures as will amount to a prohibition, in order to supply us themselves.

UPON accurately investigating this point, we shall find the reasoning to be false, as the supposition is illiberal. It is true the eastern States can build and equip ships, upon better terms than the southern. Nay, I believe I may go farther, and say, that they can upon better terms than any nation in Europe. This arises from their having all the materials for ship-building within themselves, except canvas and cordage, whilst most of the maritime powers of Europe, depend upon foreign countries, not only for these articles, but also for timber and masts. A great extent of sea coast, a cold climate, a barren soil, and above all, the fisheries, furnish an infinite number of seamen, who from necessity are

willing to navigate for very moderate wages. If this be the case, is there any reason to suppose that the eastern States will not carry our produce upon as reasonable terms as any of the European powers? I believe it is a fact, that before the war, they were the principal carriers ~~to~~ for the British West-Indies; so low were the terms upon which their vessels could be chartered. And the same causes still exists, why they should take freight upon terms equally moderate. But this is not all. The eastern States are not ignorant that the southern possess even better materials for ship-building, than they do; and therefore will take care not to excite their jealousy, nor stimulate them to build ships and become their own carriers, by exacting unreasonable freightage. But admitting that the eastern Delegates should be so dishonest as well as unwise, to combine against those of the south—I will venture to assert, that not a man in America, who is acquainted with the middle States, can suppose that they would join in such a combination. New-York is rather a country of farmers than of sailors: It possesses large tracts of fertile soil, but no fisheries, and before the war, for one ship built in that State, either for freightage or sale, there were thirty in New-England. All that she will aim at, therefore, will be ships of her own, sufficient to carry her own produce. Her interests, therefore will not induce her to enter into this formidable combination.

JERSEY, from her local situation, and a variety of peculiar circumstances, has fewer ships and seamen than even any of the southern States. Her interests, therefore, will lead her to adhere to them.

THE same reasoning applies to Pennsylvania that does to New-York; and still more emphatically; because this State is still more employed in husbandry. And as to the State of Delaware, it does not own six ships.

LET us then see how this question will stand in point of numbers. The four eastern States will have seventeen voices, which will be opposed by the nineteen voices of the middle States, and the twenty-nine of the southern.

I WILL ~~not~~ endeavour to answer the other objection.—The fear of a northern combination to furnish the southern States with

manufactures. This I conceive, has arisen either from ignorance of the subject, or an absolute enmity to all confederation. The only manufactures which the northern States possess and with which they can furnish others, are shoes, cotton cards, nails, hats, carriages, and perhaps paper and refined sugars may be added; and should the whale-fishery be ever revived, train oil and spermacæti candles. The two first articles may be in a great measure confined to Massachusetts. Their shoes are as good and as cheap as those imported from Great-Britain, at least as the sale shoes. And as to the second article, the exportation of them from thence is prohibited by act of Parliament. Both New-York and Pennsylvania manufacture leather in all its branches, and hats; but not more than sufficient for their own consumption. Connecticut has no manufactures to export; nor has New-York, unless perhaps some refined sugar. Jersey has only domestic manufactures. Pennsylvania manufactures nails, refined sugar, cotton cards, carriages, and, of late, paper for exportation. The Delaware State has only domestic manufactures.

If Massachusetts can furnish us with shoes, cards, train oil, and spermacæti candles; Pennsylvania with nails, white sugar, carriages, and paper, as cheap as we can procure them from beyond the Atlantic, why should not such European articles be prohibited? There is no probability that either the northern or southern States, will in many years become extensive manufacturers. The price of labour and cheapness of land, will prevent it; and the daily migrations from all the States to the western parts of America, will keep up the one, and keep down the other. I have been informed, and I believe rightly informed, that the amount of the imports from Europe, is as great or greater in the eastern or middle States, as in the southern, in proportion to their numbers.* This, to many, may appear doubtful; but I believe it, because I have good

* It is a generally received opinion in this country, that the exports of the eastern and middle States are very inconsiderable; but this is a great mistake; for when we take into consideration their wheat, flour, lumber, flax-seed, potash, fish, oyl, iron, and rum, there can be no doubt but these articles produce great sums. I am informed that the European goods annually shipped to Massachusetts, are to a greater amount than those shipped to Virginia. These goods can only be paid for by the produce of their exports.

reason to think, that the domestic manufactures of the southern States, particularly of Virginia, are of greater value than the domestic manufactures of the northern and middle States, in the same proportion. This has arisen from the cultivation of cotton, which will not come to perfection to the northward; and that article is manufactured with much less ~~trouble~~ labour than either flax or hemp.

IF this account be just, what have the southern States to fear? But admitting some of the eastern and middle States should enter into this illiberal, unjust, and impolitic combination: Let us see how the numbers would stand. New-Hampshire, Massachusetts, New-York, and Pennsylvania, the only manufacturing States, may combine: Their numbers will amount to twenty-five in one House, to be opposed by forty; and in the other the numbers will be eight, to be opposed by sixteen.

AFTER all, suppose these objections are founded in fact: Had we not better submit to the slight inconveniencies which might arise from this combination, than the serious evils that must necessarily follow from disunion?

To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

To provide for the punishment of counterfeiting the securities and current coin of the United States;

To establish Post-offices and post roads;

To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

To constitute tribunals inferior to the Supreme Court;

To define and punish piracies and felonies committed on the high seas, and offences against the law of nations;

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

MOST of these powers, the present Congress possess, and none of them have been objected to, except what relates to the Courts, which will be taken notice of hereafter.

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

BY this regulation every House of Representatives will have a share in the appropriations; and no mischief can ensue from appropriations of two years, since the proceedings of each House of Congress are to be published from time to time, as well as regular statements and accounts of the receipts and expenditures of all public money.

To provide and maintain a navy;

To make rules for the government and regulation of the land and naval forces;

THE present Congress possess the powers given by these clauses.

To provide for calling forth the militia to execute the laws of the union, suppress insurrections and repel invasions;

To provide for organizing, arming and disciplining, the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.

BY these clauses, the appointment of the militia officers, and training the militia, are reserved to the respective States; except that Congress have a right to direct in what manner they are to be disciplined, and the time when they are to be ordered out.

THESE clauses have been extremely misunderstood, or purposely misconstrued, by the enemies to the Constitution. Some have said, "the absolute unqualified command that Congress have over the militia may be instrumental to the destruction of all liberty, both public and private, whether of a personal, civil, or religious nature." *

Is this the result of reason, or is it the dictate of resentment? How can the command of Congress over the militia be either absolute or unqualified, when its officers are appointed by the States, and consequently can by no possibility become its creatures?

THEY will generally be men of property and probity: And can any one for a moment suppose that such men will ever be so lost

* Minority address, p. 22, 23.

to a sense of liberty, the rights of their country, and their own dignity, as to become the instruments of arbitrary measures? Whenever that shall be the case, we may in vain contend for forms of government; the spirit of liberty will have taken its flight from America, and nothing but an arbitrary government will be fit for such a people, however accurately defined the powers of her Constitution may be. But so long as there shall be a militia so officered, or the majority of the people landholders, America will have little to fear for liberty. Congress have the power of organizing the militia; and can it be put into better hands? They can have no interest in destroying the personal liberty of any man, or raising his fortune in the mode of organization: They can make no law upon this, or any other subject, which will not affect themselves, their children, or their connexions.

CAN any one seriously suppose, that Congress will ever think of drawing the militia of one State out, in order to destroy the liberties of another? Of Virginia, for instance, to destroy the liberties of Pennsylvania? Or should they be so wicked, that an American militia, officered by the States, would obey so odious a mandate?* The supposition is monstrous.

To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings.

So great is the jealousy of some of our citizens, that even this clause has excited their fears. This little spot is to be the centre to which is to be attracted all the wealth and power of this extensive continent: The focus which will absorb the last remains of American liberty. Such are the visionary phantoms of the antifederalists.

THE Congress is to govern, as they shall see fit, a district not more than ten miles square. And what possible mischief can

* Minority address. That hasty and passionate performance is full of absurdities on this head.

arise to the United States from hence? This district must either be purchased by Congress, or yielded to them by the inhabitants of that particular spot, which they may conceive most convenient for them to assemble at, and for which the consent of the State is necessary. If the first, there will be few or no inhabitants; they will therefore induce people to settle it, by establishing a mild government. If the second, the inhabitants of any particular district certainly have a right to submit to whatever form of government they may think agreeable, provided the State within which the district lies, consents; without giving offence to Virginia, or any other of the States. We are told that the wise Franklin has recommended to the Philadelphians to offer their city and its environs as the seat of Congress. Can it be supposed that he would recommend this measure to his favorite city were he not well assured that the government of Congress will be a good one? I have no doubt but this district will flourish; that it will increase in population and wealth: Because I have no doubt but most people would think it a happiness to live under the government of such men as will compose the Congress; or under such a government as such men will frame for that district.

And—To make all Laws which shall be necessary and proper for carrying into execution the foregoing powers, and other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.

By this clause, Congress have no farther legislative authority than shall be deemed necessary to carry into execution the powers vested by this Constitution. This regulation is necessary; as without it the different States might counteract all the laws of Congress, and render the Federal Government nugatory.

Sect. 9. *The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.*

This clause is a proof of deference in the members of the Convention, to each other, and of concession of the northern to the

southern States. There is no doubt but far the greater part of that Convention hold domestic slavery in abhorrence. But the members from South-Carolina and Georgia, thinking slaves absolutely necessary for the cultivation and melioration of their States, insisted upon this clause. But it affects not the law of Virginia which prohibits the importation of slaves.

The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public Safety may require it.

By this clause the Congress have the right of suspending the habeas corpus in the two cases of insurrection and rebellion—a power which follows from the necessity of the thing.

No bill of attainder or ex post facto law shall be passed.

It is extraordinary that Mr. Mason should have made a part of this clause a ground of objection. 'Till that gentleman denied it, I had supposed it an universally received opinion, that ex post facto laws were dangerous in their principle, and oppressive in their execution. And with respect to bills of attainder, a very slight acquaintance with the history of that country in which alone they are used, is sufficient to discover that they have been generally made the means of oppression.

No capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.

This clause is a confirmation of the third clause of the second section of the first article.

No tax or duty shall be laid on articles exported from any State.

No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another: Nor shall vessels bound to, or from, one State, be obliged to enter, clear, or pay duties in another.

All writers upon finance hold taxes upon exports to be impolitic. Yet there are doubtless some articles which will with propriety bear an export duty; such as tobacco and perhaps indigo. But then these articles are of the growth of only five of the States; and it would be a manifest injustice that the produce of some

States should be taxed for the benefit of others. The latter part of the clause provides that all Naval Officer fees and port charges shall be the same throughout the United States; and that a vessel bound to one State from another, and calling at any intermediate State, shall not be obliged to enter, clear, or pay duty, in such State. This tends to facilitate the intercourse among the States, and may produce many commercial conveniencies.

No money shall be drawn from the Treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money, shall be published from time to time.

As all appropriations of money are to be made by law, and regular statements thereof published, no money can be applied but to the use of the United States.

No title of nobility shall be granted by the United States:—And no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any King, Prince, or foreign State.

THE first part of this clause proves the Convention had no aristocratical views, nor any idea of establishing an order in the State, with rights independent of the people. The latter part of it is introduced to prevent the officers of the Federal Government being warped from their duty.

Sect. 10. *No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts; or grant any title of nobility.*

THE States, in their individual capacities, should be restrained from the exercise of the powers enumerated in this clause, for a variety of reasons. If any State should have a right of making treaties, granting letters of marque, and the like, America might be perpetually involved in foreign wars. By exercising the right of coinage and of emitting bills of credit, a State might, by the

former, debase the currency of the United States, by mixing great quantities of alloy, and by that means defraud the Federal Treasury; and by the latter it might defraud not only its own citizens, but the citizens of other States. But this is not all. An exercise of these rights would materially interfere with the exercise of the like by the Congress; and therefore the particular, should give way to the general interest. The making anything but gold and silver a tender in payment of debts, and the impairing the obligation of contracts, is so great a political injustice, that the Constitution here requires of the States, that they will forever relinquish the exercise of a power so odious. This part of the clause would probably never have been introduced, had not some of the States afforded too frequent instances of unjust laws upon these subjects.

No State shall, without the Consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing it's inspection laws; and the nett produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision and controul of the Congress.

No State shall, without the consent of Congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

If the individual States might lay duties upon the imports, it would be counteracting the same right in Congress, and ruin the great fund out of which the present federal debts are to be paid, as well as the future federal expences defrayed. And with regard to exports, it was highly reasonable that one State should be prohibited from laying an export duty on the articles of a sister State, which may be shipped through that State.

The exigencies of the Union may however require direct taxes. By this clause, a door is open to the States, to raise their respective quotas, in lieu of direct taxes; by laying a duty upon exports; or even duties upon imports. But as the amount of these duties are to be paid into the public Treasury, no inconven-

ience can, on the one hand, arise to the general welfare from them; and, on the other, the power of revision in the Congress will be the means of securing a due attention to the interests of all the States, in the mode of laying the duty, as well as in the application of it. The latter part of the clause is no more than a confirmation of principles antecedently established, and of powers before vested in the Congress, but such as are absolutely necessary for the good order, dignity, and harmony of the whole; and are such as the States have already yielded to the present Congress.*

ARTICLE II.

Sect. 1. *The Executive Power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice-President, chosen for the same term, be elected as follows:*

Each State shall appoint, in such manner as the Legislature thereof may direct, a number of Electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress: But no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an Elector.

The Electors shall meet in their respective States, and vote by ballot, for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit, sealed to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of Electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately chuse, by ballot, one of them for President; and if no person have a majority, then from the five

* See Article the 6th of the Confederation.

highest on the list the said House shall in like manner chuse the President. But in chusing the President, the votes shall be taken by States, the Representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors, shall be the Vice-President. But if there should remain two or more who have equal votes, the Senate shall chuse from them, by ballot the Vice-President.

IT has been urged by many, that the President should be continued in office, only a given number of years, and then be rendered ineligible. To this it may be answered, were that to be the case, a good officer might be displaced, and a bad one succeed. Knowing that he could not be continued, he might be more attentive to enrich himself, should opportunities offer, than to the execution of his office. But as his continuance in office, will depend upon his discharging the duties of it with ability, and integrity, his eligibility will most probably be the best security for his conduct. The longer a man of abilities and virtue, fills an office, the better, and easier will the duties of it be discharged: The whole system of administration becomes well arranged; and every department in the government well filled. An election to this office once in every four years, is a sufficient curb upon the President. The Electors hold the reins. If he has misconducted himself, he will not be re-elected; if has governed with prudence, and ability, he ought to be continued.

THE Vice-President will probably be a candidate to succeed the President. The former will therefore be a perpetual centinel over the latter; will be a stimulus to keep him up to his duty, and afford an additional security for his upright conduct.

NOTWITHSTANDING these reasons, and the powerful checks opposed to the powers of the President, the enemies of the Constitution has sounded the alarm with great violence, upon the ground of his eligibility for life. Some tell us that it will be the means of his becoming the hereditary sovereign of the United States; whilst others hold up to our view the dangers of an elective monarchy.

IT is pretty certain that the President can never become the sovereign of America, but with the voluntary consent of the people. He is re-elected by them; not by any body of men over whom he may have gained an undue influence. No citizen of America has a fortune sufficiently large, to enable him to raise and support a single regiment. The President's salary will be greatly inadequate either to the purpose of gaining adherents, or of supporting a military force: He will possess no princely revenues, and his personal influence will be confined to his native State. Besides, the Constitution has provided, that no person shall be eligible to this office, who is not thirty-five years old; and in the course of nature very few fathers leave a son who has arrived to that age. The powers of the President are not kingly, any more than the ensigns of his office. He has no guards, no regalia, none of those royal trappings which would set him apart from the rest of his fellow citizens. Suppose the first President should be continued for life: What expectations can any man in the Union have to succeed him, except such as are grounded upon the popularity of his character?

NONE of its citizens possess distinct principalities, from whence money may be drawn to purchase, or armies raised to intimidate the votes. Fortunately for America, she has no neighbouring Princess to interfere in her elections, or her councils: No Empress of Russia to place the Crown upon the head of her favorite Powniotowsky.*

IT has also been objected, that a Council of State ought to have been assigned the President. The want of it, is, in my apprehension, a perfection rather than a blemish. What purpose would such a Council answer, but that of diminishing, or annihilating the responsibility annexed to the character of the President. From the superiority of his talents, or the superior dignity of his place, he would probably acquire an undue influence over, and might induce a majority of them to advise measures injurious to the welfare of the States, at the same time that he would have the means of sheltering himself from impeachment, under that majority. I will here once for all observe, that descended as we are from the English, conversant as we are in the political history

* The present King of Poland was Stanislaus Leginski, Count Powniotowsky.

of that country, it is impossible not to derive both political opinions, and prejudices, from that source. The objectors probably considered, that as in the English government, the first Magistrate has a Council of State; there should be one also in the American. But they should at the same time have recollected, that the King of England is not personally responsible for his conduct; but that her Constitution looks up to his Ministers, that is, to his Council, to answer for the measures of the Sovereign. But in the American Constitution, the first Magistrate is the efficient Minister of the people, and as such, ought to be alone responsible for his conduct. Let him act pursuant to the dictates of his own judgment; let him advise with his friends; let him consult those of whom he has the highest opinion for wisdom, but let not his responsibility be diminished by giving him a Council.

The Congress may determine the time of chusing the Electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

No person, except a natural born citizen, or a citizen of the United States, at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty five years, and been fourteen years a resident within the United States.

In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President; and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

The President shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

Before he enters on the Execution of his Office, he shall take the following Oath or Affirmation: "*I do solemnly swear (or affirm)* "*that I will faithfully execute the Office of President of the United*

" States, and will to the best of my ability, preserve, protect, and de-"fend the Constitution of the United States."

THE first of these clauses is intended to prevent intrigue and tumult in chusing the Electors: And the reasons already offered, why Congress should have the right of altering "the times and manner of holding the elections for Senators," apply why they should have the power of determining the time of chusing Electors. The fifth is an additional check upon the President.

Sect. 2. *The President shall be Commander in Chief of the army and navy of the United States, and of the militia of the several States, when called into the actual service of the United States: he may require the opinion, in writing, of the principal officer in each of the Executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.*

THE powers vested in the President by this and the subsequent clause, belong, from the nature of them, to the Excutive branch of government; and could be placed in no other hands with propriety.

So long as laws cannot provide for every case that may happen: So long as punishments shall continue disproportionate to crimes, the power of pardoning should somewhere exist. With whom could this power, so precious to humanity, be better entrusted, than with the President? An officer who, from his age and experience, will seldom be misled in the exercise of it; and who less liable to the influence of prejudice and passion than a popular assembly, will most probably be guided by discretion in the use of it.

WHY Govenor Randolph should wish to take from him this power, at least in cases of treason; and why he should have made a distinction between the power of pardoning before, and after conviction; I am at a loss to conceive; and shall therefore attempt no further answer to an objection which appears to me, unsupported by reason.*

* See Governor Randolph's letter. He has enforced none of his objections with reasons.

He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law. But the Congress may, by law, vest the appointment of such inferior officers, as they think proper, in the President alone, in the Courts of law, or in the heads of departments.

THE Constitution has here lessened the authority of the President, by making the assent of two-thirds of the Senate necessary in the important cases of making treaties, in appointing Ambassadors, the Judges of the Supreme Court, and the great officers of State.

WRITERS upon government have established it as a maxim, that the Executive and Legislative authority should be kept separate. But the position should be taken with considerable latitude. The Executive authority here given to a branch of the Legislature, is no novelty, in free governments. In England, the Executive, or Cabinet Council, is taken indifferently from either House of Parliament. In the States of New York and Jersey, the Senate not only act as an Executive Council, but also form a part of the Court of Appeals.*

THE following reasons suggest themselves in support of the propriety of vesting the President and Senate with the power of making treaties.

THE President is the Representative of the Union : The Senate the Representatives of the respective States. The objects of treaties must always be either of great national import, or such as concern the States in their individual capacities ; but never can concern the individual members of the State. Secrecy and dispatch are necessary in making them : For without secrecy and dispatch, they are seldom made to purpose. Hence arises the impropriety of consulting either the Representatives of the

* It is to be observed, that this is the only instance where the Senate have the shadow of Executive power.

people, or the different States. If the former were consulted, the interests of the small States might be sacrificed; if the latter, almost insurmountable obstacles would be thrown in the way of every negociation.

In the Dutch Republic the States-General are obliged to consult their constituents, upon this, as upon every important occasion, however urgent may be the necessity. This vice in their Federal Constitution has more than once brought them to the brink of ruin.

The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

This inoffensive clause is made a ground of objection by Governor Randolph! I wish he had informed us wherefore.

Sect. 3. *He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient: He may on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them, with respect to the time of adiournment, he may adjourn them to such time as he shall think proper; He shall receive Ambassadors and other public Ministers: He shall take care that the laws be faithfully executed; and shall commission all the officers of the United States.*

The powers given by this section are such as in all governments, have always been, and must necessarily be, vested in the first magistrate.

Sect. 4. *The President, Vice-President and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.*

The persons subject to impeachment, are the President, Vice-President, and all civil officers of the United States, and no others.

ARTICLE III.

Sect. 1. *The judicial Power of the United States shall be vested in one Supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of*

the supreme and inferior Courts, shall hold their offices during good behaviour, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

Sect. 2. *The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting Ambassadors, other public Ministers and Consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States, between a State and citizens of another State, between citizens of different States, between citizens of the same State claiming lands under grants of different States, and between a State or the citizens thereof, and foreign States, citizens or subjects.*

In all cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places, as the Congress may by law have directed.

No part of the Constitution seems to have been so little understood, or so purposely misconstrued, as this article. Its enemies have mustered all their forces against the Federal Court; and have loudly sounded the trumpet, for the benevolent purpose of alarming the good people of Virginia, with the fears of *visionary* danger and imaginary oppression. They have told them the Federal Court, like Aron's rod, would swallow up all the judiciary authority of the respective States. That a citizen of Virginia may be forced to Philadelphia for a debt of 5l. although it was contracted with a fellow citizen: And, above all, that the trial by jury is not preserved. In a word, it is the Federal Court that is to be made the great instrument of tyranny.

THESE indeed would be serious objections were they well founded.

IT is on all hands admitted, that a Federal Court is necessary, for a variety of purposes, and under a variety of circumstances.

THE only question then is, whether the enumeration of the cases assigned to the Federal Court, by this article, is likely to produce oppression? Or if there be any ground to apprehend that Congress will not, by law, provide a remedy for all probable hardships, and render the federal jurisdiction convenient to every part of the United States?

THERE has been no objection raised to the Federal Court having original jurisdiction, in all cases respecting public Ministers, and where a State may be a party: and these are the only cases wherein it has *original jurisdiction*. In these cases, in controversies between two or more States, and between a State and citizens of another State, and between citizens of the same claiming lands under grants of different States, the present Congress have the right of determining.* Here the Judiciary is blended in an eminent degree with the Legislative authority; a strong reason, among many others, for new modeling that unskilfully organized body.†

THE Convention sensible of this defect, has wisely assigned the cognizance of these and other controversies to a proper tribunal, a Court of Law.

AMONG these controversies, there is but one possible case where a dispute between two citizens of the same State can be carried, even by appeal, to the Federal Court; and that is, when they claim the same land under grants from different States. As their title is derived through States, this case is precisely within the reason which applies to controversies wherein two States are parties.

NOTWITHSTANDING this, we are told that in the most ordinary cases, a citizen of Virginia may be dragged within the appellate jurisdiction of the Federal Court, although the transaction which

* 9 Article of the Confederation.

† Under the present Confederation, every department of government, is lodged in the same body; which alone is a sufficient reason for adopting a new federal system.

gave rise to the controversy originated between fellow citizens. This, it is said, may be effected, by assigning a bond, for instance, given by one fellow citizen to another, either to a foreigner or a citizen of another State. To this I answer, that such assignment would not be attended with any such consequence; because it is a principle in law, that the assignee stands in the place of the assignor; and is neither in a better nor a worse condition. It is likewise asserted, that if two citizens of the same State claim lands lying in a different State, that their suit may be carried to the Federal Court for final determination. This assertion is equally groundless. For this being a local action, it must be determined in the State wherein the lands lie.

AND I repeat it again, because it cannot be too often repeated, that but one possible case exists, where a controversy between citizens of the same State can be carried into the Federal Court. How then is it possible that the Federal Court can ever swallow up the State jurisdictions, or be converted to the purposes of oppression.

SEVERAL reasons occur why the Federal Court should possess an appellate jurisdiction in controversies between foreigners and citizens, and between the citizens of different States. A foreigner should have the privilege of carrying his suit to the Federal Court, as well for the sake of justice, as from political motives. Were he confined to seek redress in the tribunal of that State, wherein he received the injury, he might not obtain it, from the influence of his adversary; and by giving him this additional and certain means of obtaining justice, foreigners will be encouraged to trade with us, to give us credit, and to employ their capitals in our country. ~~Then~~ These controversies must for the most part arise from commercial transactions, by which the bulk of the people can be seldom effected. The first part of this reasoning equally applies to controversies between citizens of different States. Besides, were the jurisdiction of the Federal Court not coextensive with the government itself, as far as foreigners are concerned, a controversy between individuals might produce a national quarrel, which commencing in reprisals, would probably terminate in war. Suppose a subject of France or Great

Britain should complain to the Minister residing at the seat of Congress, that it was impossible to obtain justice in a Court of Law, in Virginia, for instance. The minister represents the matter to his Court. That Court will apply to the Congress, not to the individual State, for redress. Congress replies, "we lament that it is not in our power to remedy the evil; but we have no authority over the jurisprudence of the State." Is it probable that such an answer will be satisfactory to powerful nations? Will they not say "we must take that redress by force which your feeble government denies us? We are under the necessity of seizing American property wherever we can lay our hands upon it, till the just demands of our subjects are satisfied."

THOSE objectors who are so much alarmed for the trial by jury, seem little acquainted either with the origin or use of that celebrated mode of trial.

I WILL take leave to inform them, that by our laws a variety of important causes are daily determined without the intervention of a jury, not only in the Court of Chancery, but in those of common law; and that by several of our Acts of Assembly, the General Court has a power of assessing fines as high as 500l. for inconsiderable delinquencies, without the intervention of a jury, even to find the fact.

As I have before observed, these causes will be from the nature of things, generally mercantile disputes; must be matters of account, which will be referred to commissioners, as is the practice of all common law Courts in similar cases. Whenever it may be necessary that the facts should be stated, no doubt they will be found by a jury of the State, from whence the cause is carried; and will be made a part of the record.

IN criminal cases, the trial by jury is most important. In criminal cases the Constitution has established it unequivocally. But in having only recognized this trial in criminal, it by no means follows that it takes it away in civil cases: And we may fairly presume, that by the law which the Congress will make to compleat the system of the Federal Court, it will be introduced, as far as it shall be found practicable, and applicable to such controversies as from their nature are subjects proper to be determined in that Court.

ALL civilized societies have found it necessary to punish a variety of offences, with the loss of life. The life of man is a serious forfeiture : Our law has therefore humanely and justly said, that it shall not be affected, but by the unanimous opinion of twelve men. In a political view, this mode of trial, in State prosecutions, is of still greater importance. The Chief Magistrate, or the Legislature itself, of a republic, is as liable to personal prejudice, and to passion, as any King in Europe; and might prosecute a bold writer, or any other person, who had become obnoxious to their resentment, with as much violence and rigour. What so admirable a barrier to defend the innocent, and protect the weak from the attacks of power, as the interposition of a jury? In this respect, the trial by jury may well be called the palladium of liberty.

THE framers of the Constitution viewing it in this light, although it was impossible to enter minutely into the subject of the Federal Court, and arrange it fully, took care to declare that, in criminal cases, the trial by jury should be preserved, lest we should have had some ground of uneasiness upon that important point.

I MUST farther observe, that the Federal Court has no jurisdiction over any offences except such as are against the Union : And the criminal is to be tried in the State where the fact is committed.

IT is asked, why has not the Constitution more accurately defined the jurisdiction of the Federal Court, more clearly ascertained its limits, and more fully pointed out the modes of trial?

TO this it may be answered, that the out-lines of the piece are traced with sufficient accuracy : That to have entered minutely into this subject, to have filled it ~~with~~ in all its parts, would have employed almost as much time as framing the Constitution itself, and would have spun out the work to a tedious length. In that case the Convention must have ascertained the number of inferior Courts necessary, the number of Judges, and other officers, with their salaries, the times of holding the Federal Courts, the duration of their terms ; in what cases the trial shall be by jury, in what not, with an infinite variety of circumstances, the introduction of

which in a system of government, would have made a strange appearance. They therefore properly left to the Congress the power of organizing by law the Federal Court: Well knowing that at least eight of the States must, from their local situation, concur in rendering it convenient to the whole.*

Sect. 3. *Treason against the United States, shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open Court.*

The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted,

THIS section is equally humane and just.

ARTICLE IV.

Sect. 1. *Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may by general laws prescribe the manner in which such acts, records, and proceeding shall be proved, and the effect thereof.*

Sect. 2. *The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.*

A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up to be removed to the State having jurisdiction of the crime.

No person held to service or labour in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labour, but shall be delivered up on claim of the party to whom such service or labour may be due.

* The four eastern States, and the four southern, being at a great distance from the center, will necessarily concur in making the Federal Court as convenient as possible: And therefore appeals to the Supreme Court will be allowed only in cases of great consequence.

THE convenience, justice, and utility, of these sections, are obvious.

AT present, slaves absconding and going into some of the northern States, may thereby effect their freedom: But under the Federal Constitution they will be delivered up to the lawful proprietor.

Sect. 3. *New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned as well as of the Congress.*

The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any Claims of the United States, or of any particular State.

UPON this section I shall only observe, that illiberal and groundless prejudices against the northern States too generally prevail in this country. Hence the unwarranted jealousy of the politics of those States. But were they well founded, the powers given under this section will manifestly tend to allay our fears of a northern combination. For as the greater portion of those immense tracts of fertile land which remain uninhabited, or but thinly settled, and which are yet to be divided into new governments, lie on the south western boundary; the southern interest will be strengthened by the Representatives of the new States. Would we could forget our provincial prejudices, and consider ourselves as citizens of America! *

Sect. 4. *The United States shall guarantee to every State in the Union a republican form of government, and shall protect each of them against invasion; and on application of the Legislature, or of*

* The vulgar in Massachusetts believe, that the practice of gouging in Virginia is so common, that half of its inhabitants have but one eye. This opinion is on a level with a declaration of a gentleman high in office, in this country, who declared himself against the Federal Government, because the eastern people were all rogues.

the Excutive (when the Legislature cannot be convened) against domestic violence.

THIS is an additional proof of the caution of the framers of the Constitution, and how distant their views must have been from the design of introducing and establishing an arbitrary government.

ARTICLE V.

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two-thirds of the several States, shall call a Convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; Provided that no amendment which may be made prior to the year one thousand eight hundred and eight, shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

ALL human productions must partake of imperfection. The members of the Convention did not pretend to infallibility: They considered that experience might bring to light inconveniences which human wisdom could not foresee—And this article wisely provides for amendments, the necessity of which time may discover.

THERE is not an article of the Constitution that deserves greater praise than this. The Convention sensible that they could not foresee every contingency, and guard against every possible inconvenience: Sensible that new circumstances might arise, which would render alterations in the government necessary; have declared that whenever two-thirds of both Houses of Congress, or two-thirds of the State Legislatures, shall concur in deeming amendments necessary, a general Convention shall be appointed, the result of which, when ratified by three-fourths of the Legislatures, shall become a part of the Federal Government.

I CONFESS myself at a loss to conceive what better mode could have been adopted. If the system be reduced to practice, and experience shall discover important defects, there can be no doubt but that two-thirds of Congress will be sensible to them, and will point them out to the different Legislatures. On the other hand, it is equally certain, that if the defects be flagrant, they will be readily seen by two-thirds of the Legislatures, and a Convention will necessarily be the consequence: Nor is there any cause to apprehend, that the result of such Convention, will be rejected by one-fourth of the States: Since all the States must feel the inconvenience of important defects.

BUT, say the friends to previous amendments, friends, as many of them pretend even to an energetic Federal Government,* why not amend the Constitution before it is adopted? To this it may be answered, that they should first demonstrate their objections to be well founded; and that their proposed amendments, if they can be said to have offered any, would make it better. I am inclined to think, that neither Mr. Gerry's, Mr. Mason's, nor Governor Randolph's, would. Upon this occasion I hope I shall be excused for recommending to those gentlemen, as well as to other objectors, Dr. Franklin's last speech in the Convention, which is replete with good sense, as well as a marked deference for the opinions of others. If the objections of these gentlemen be groundless, the Constitution needs no amendment; if they be not, it cannot be amended in the manner they propose. Mr. Mason, Mr. Randolph, the State of Virginia, raise objections: Mr. Gerry, and the State of Massachusetts, do the same: Every other citizen, every other State, has an equal right. A new Convention is formed, the proposed plan is amended, or a new one produced. It is again presented to the public eye. New blemishes appear; new amendments are thought necessary. That which Mr. Mason may think a perfection, another may think a fault: What would be agreeable to Massachusetts, might displease Virginia. In a word there would be no end to objections, amendments, and Conventions. All federal government falls to the ground. Anarchy ensues, and produces convulsions, which inevitably end in despotism.

* See Mr. Gerry's, Mr. Mason's, and Governor Randolph's objections.

ARTICLE VI.

All debts contracted and engagements entered into before the adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the Judges in every State shall be bound thereby, any thing in the Constitution or laws of any State, to the contrary notwithstanding.

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

THAT treaties should be the supreme law of the land is warmly opposed by the enemies of the Constitution. This power, say they, may be converted to the most arbitrary and destructive purposes.

TREATIES ought of right to be considered in the light, that the Convention has here viewed them. For why should they be made, if due obedience is not to be paid them? The negative can only be supported by those who feel it their interest, that they should be disregarded.

THE objects of government are protection and security: Many national circumstances may arise wherein these objects cannot be effected, without the observance of treaties.

WHEN we consider who it is that has the power of making treaties, the manner of his election, the checks that the Constitution has interposed to guard against his possible abuse of power, among which his liability to impeachment is not the least: When we consider the subject matter of treaties are always of national import, and cannot affect the interests of individuals, we have no reason to fear that they will be made improvidently, or converted into instruments of oppression: They may be unwise, but can never be intentionally wicked.

THIS, like every other article of the Constitution, was the subject of long and serious deliberation; and it was ultimately and rightly determined, that as the power of making treaties was necessary, it could no where so properly, or so safely be placed for the interests of the Union as in the hands of the President: And if when made they were not to have the effect of law, the power of making them would be nugatory.

THE following passage from Blackstone's Commentaries, will tend to illustrate this subject. "It is also," says that elegant commentator, "the King's prerogative to make treaties, leagues, "and alliances, with foreign States and Princes. For it is by the "*law of nations* essential to the goodness of a league, that it be "made by the sovereign power, and that it is binding upon the "whole community: And in England the sovereign power, quod "hoc, is vested in the person of the King. Whatever contracts "therefore he engages in, no other person in the kingdom can "legally delay, resist, or annul. And yet lest this plentitude of "authority should be abused, to the detriment of the public, the "Constitution (as was hinted before) has here interposed a check "by means of parliamentary impeachment, for the punishment of "such Ministers, as from *criminal* motives advise or conclude any "treaty, which shall afterwards be judged to derogate from the "honor and interest of the nation." 1 Bl. p. 257. I might cite all the political writers in support of the general doctrine here laid down. The Convention considered it just. They saw the necessity of entrusting the power to the President; but they also knew that in this, as in every other exercise of power, he is the Minister of the people; and that whenever in making a treaty he shall be governed by corrupt motives, he will be liable to impeachment.

HAVING thus gone through the different articles of the Constitution, I will now endeavour to answer two other objections that have been made to it. The first is, "that the liberty of the press is not secured." The second, "that it will annihilate the independence of the different States."

ON the first objection I shall only observe, that as the Congress can claim the exercise of no right which is not expressly given them by this Constitution; they will have no power to restrain the press in any of the States; and therefore it would have been

improper to have taken any notice of it. The article respecting the habeus corpus act corroborates this doctrine. The Convention were sensible that a federal government would no more have the right of suspending that useless law, without the consent of the States, than that of restraining the liberty of the press: But at the same time they knew that circumstances might arise to render necessary the suspension of the habeus corpus act, and therefore they require of the States, that they will vest them with that power, whenever those circumstances shall exist. But they also knew, that no circumstances could make it necessary that the liberty of the press should be entrusted to them, and therefore they judged it impertinent to introduce the subject. But still there are fears for the district which may become the seat of Congress, and which may be ten miles square.

CAN it be for a moment supposed, that Congress will not preserve the liberty of the press in the government of that district? Or that there exist American citizens so lost to a sense of liberty, as to reside under a government where it shall be taken away.*

As to the other objection, I will admit, that by this Constitution, the several States will be abridged of some of their powers: but of no more than are necessary to make a strong federal government. Sufficient still remains with the State Legislatures to preserve the quiet, liberty, and welfare, of their citizens. To them is left the whole domestic government of the States; they may still regulate the rules of property, the rights of persons, everything that relates to their internal police, and whatever effects neither foreign affairs nor the rights of the other States. Powers weighty enough to be entrusted to most men; and which good and modest men would think sufficient to be entrusted to them. Besides we should remember that every State has its proportionate share in the national government; and that the Constitution has not only guaranteed to them a republican form, but has made *their* independence necessary to *its own* existence.

THE adoption of this government will not only preserve our Union, and thereby secure our internal happiness; but will re-

* It is to be observed, that the consent of the State where this district shall lie, must be obtained by the Congress: And the State may stipulate the terms of the cession.

store that confidence and respectability abroad, which have been lost since the days of Saratoga and York. The firm confederation of thirteen States, inhabiting a fertile soil, and growing rapidly in population and strength, will give them an importance in the world, which they can never acquire when disunited: And we are assured from the best authority, that the link of the present Union is but a thread. An energetic government will give a spring to everything. New life will be infused throughout the American system. Our credit will be restored; because the proposed Constitution at the same time that it will give us vigour, will inspire foreign nations with a confidence in us. The restoration of credit, will be the revival of commerce. The sound of the hammer will be again heard in our ports. The ocean will once more be covered with our ships, and the flag of the United States be respected by the nations.

BUT once disunited, these bright prospects immediately vanish: Our western hemisphere is clouded over; and destructive storms arise. Our inactivity and torpor produced by the relaxation of our laws will become inveterate, unless our internal quarrels shall rouse us into action; the seeds of which have been long sown, and disunion will make the harvest plentiful. Massachusetts and New-Hampshire have more than a pretext of quarrel in their pretensions to the province of Main; and their mutual interference in the fisheries will serve to increase the dispute. Connecticut and New-York may revive their old quarrel respecting boundaries. Pennsylvania will not forget that the territory of Delaware was once united to her; and will probably cast thither a longing eye. Maryland and Virginia may dispute the right to the shores of Potowmack, and the latter may readily revive with Pennsylvania, the old dispute respecting the northern boundaries: A dispute which terminated unfavourably to Virginia, and which from the peculiarity of it, was difficult to settle. When to such causes of dissention, we add the commercial regulations of the individual States, the ambitious views of their leaders, and the ill-grounded, though rooted, prejudices of the whole, have we not abundant reason to fear the most serious calamities from a disunion? Then will open a new scene in America; the sword is then drawn not

against foreign foes, but against each other: The sword is then drawn never to be sheathed, till some State more powerful or more fortunate than the rest, shall subjugate the whole.

EXAMINE then, my countrymen, dispassionately the proposed plan of federal government, and you will find that so far from being full of defects, it is a system well calculated to preserve the liberty, and ensure the happiness of America; and that it reflects additional honor on the names of a Dickenson, a Franklin, and a Washington.* You can not for a moment suppose that such men would deceive you! If human nature were capable of falling at once from the height of virtue to the depth of depravity; even then you were safe—for they could construct no government which would oppress you, that would not equally oppress themselves, and their posterity.

NOTE—

I INTENDED to have subjoined some observations upon Mr. Lee's letter to Governor Randolph; but finding that this manner of treating the subject has carried me farther than I expected, and that answers to most of that gentleman's objections have arisen naturally out of the different articles of the Constitution, I have declined it, for fear lest the length of the performance might become fatiguing. For however important such a subject may be to mankind; few have the art of treating political disquisitions in such a manner as to interest the majority of readers. I will however, in this place, observe, that Mr. Lee, to whose mellifluous tongue, I have often listened with pleasure, and who may be said to have grown old in politics, must have written that letter in the heat of his zeal, before he had well considered the proposed system of federal government; or he never could have talked of the rags and threads of representation, or laid himself so open to attack in every quarter. Mr. Lee, like most other enemies of the Constitution, objects without pointing

* I might have mentioned the names of a Madison, a Blair, a Hamilton, a Johnson, a King, a Rutledge. I acknowledge the abilities of Mr. Mason and Governor Randolph; but let it not be forgotten, that at the close of the Convention, there were but three dissenting voices.

out the alterations that would improve it; asserts rather than argues: An infallible mark of a bad cause. Mr. Gerry's and Mr. Mason's objections take up but a small compass: But neither of these gentlemen has deigned to give us anything like argument in support of his objections. Mr. Randolph has said much to point out the necessity of an energetic federal government; but nothing to prove that his proposed amendments are founded in reason. And Mr. Lee would have the government wholly new modelled to please himself. I suspect some of these gentlemen have upon this occasion too much resembled Dr. Franklin's French lady. I would ask Mr. Lee what advantage would result from a numerous representation in a federal Congress? If the numbers in America are not greatly exaggerated, one member for every 30,000 will make the House of Representatives to consist of an 100; which number will be increased every ten years. Has not Mr. Lee's experience in public affairs taught him that even that is a number too large to transact business with facility? But let the number of that House be relatively great or small, it can in no sense be a rag or part of a representation. That House stands, as to federal purposes, in the place of the citizens of the thirteen States, and possesses all the powers conceded to it by the citizens of those States, consequently ten persons would be as much a representation as an hundred. Had Mr. Lee considered this government as intended for thirteen different States; had he considered that the powers vested in the Congress are merely national, that is such as respect America in its relative situation with foreign nations, or such as respect the relative situation of the States in their individual capacities; and that the States still retain the most important part of their rights, in as much as the right of Legislation in domestic cases, is of much greater consequence than in foreign, I think he never would have made the observation.

I CONFESS that for some time I viewed some parts of the Constitution in the light Mr. Lee and some others have done. I at first conceived that the Senators were liable to impeachment; and that some mischief might arise from treaties of peace being made the law of the land. But after mature deliberation, I was convinced that I was mistaken in the former, and that the Constitution is right in the latter.

THE foregoing little piece was intended to counteract the misrepresentations of the proposed Federal Government, which the antifederalists have most industriously disseminated in the southern counties. The writer had no idea of publishing anything upon the subject of the Constitution, till a visit he made to one of those counties, where at the desire of his friend, he was induced to write in haste the pamphlet now offered to the public. It was to have been published time enough to be dispersed before the elections, but the Printer found it impossible to deliver it in time. The primary intention being thus defeated, it would not have been published at all, had it not been put into the press at the time stipulated. The writer had neither Mr. Mason's, Mr. Gerry's, nor Mr. Lee's objections by him: This it is hoped will be a sufficient apology for its inaccuracies, as far as their objections have been taken notice of. He takes this opportunity of observing, that perhaps he, and not Governor Randolph, is mistaken as to the *impeachability* of the Senate: He acknowledges that he has never conversed with any member of the late Convention upon the subject, though he still thinks that the arguments he has used are sufficiently strong to prove that the Senators neither are nor ought to be impeachable. He does not pretend to have gone fully into the objections which have been raised to the government: His design was to obviate only the most popular, and in a manner as popular as he was able.

END OF VOLUME I.

ERRATA.[1]

Page 4 [351],	Line 22 [7],	dele *the*
— [351],	24 [9],	for *modify* read *new-model*
6 [353],	28 [1],	for *distinction* read *definition*
9 [354],	7 [36],	for *contract* read *compact*
15 [359],	2 [22],	dele *ones*
21 [364],	3 [23],	for *prescribe* read *preserve*
22 [365],	17 [31],	for *prove* read *proves*
23 [366],	16 [21],	add before *perquisites, no*
— [366],	the last, [34],	for *subjects* read *citizens*
25 [367],	10 [32],	for *their* read *there*
— [368],	14 [5],	for *to* read *for*
26 [368],	13 [36],	for *not* read *now*
27 [370],	20 [6],	for *trouble* read *labor*
30 [372],	22 [12],	for *raising* read *ruining*
47 [385],	4 [20],	for *unskilful* read *unskilfully*
48 [386],	21 [29],	for *then* read *these*
51 [388],	7 [30],	for *with* read *in*
61 [396],	13 [30],	for *boundings* read *boundaries*

[1] In the copy of the pamphlet from which these "observations . . . b a Native of Virginia" are reprinted, the Errata are indicated by changes mad in the body of that copy with the pen (as here indicated by the small type) The table of Errata is here given, however, as an aid to the identification o other copies to which, at present, there is no clue.

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